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CASE STUDY OF THE
METROPOLITAN COUNCIL AS AN
ENVIRONMENTAL MANAGEMENT ORGANIZATION

Final Report

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TABLE OF CONTENTS

INTRODUCTION AND SUMMARY	S-1
CHAPTER I: ORGANIZATIONAL HISTORY OF ENVIRONMENTAL MANAGEMENT	
By Robert C. Einsweiler	
INTRODUCTION.	I-2
Some Initial Considerations.	I-2
Method Used in Preparing the History	I-4
Format of the History.	I-4
THE EVOLUTION OF METROPOLITAN GOVERNANCE.	I-6
The First Flowering of "Metropolitan".	I-7
The Era of Governmental Fragmentation.	I-9
The Consensus on Metropolitan Governance	I-13
Metropolitan Government: Structure and Operation . .	I-25
WATERBORNE RESIDUALS.	I-44
Late 1800's Up to WW II--Concern with River	
Pollution	I-44
Post WW II UP to the Mid-1960's--Concern with	
Ground Water Pollution.	I-45
Concern for Water Quality and Water Resource Use . .	I-49
AIRBORNE RESIDUALS.	I-60
SOLID WASTE	I-67
NOISE	I-75
OTHER ENVIRONMENTAL MEASURES.	I-82
THE EVOLUTION OF ENVIRONMENTAL MANAGEMENT	I-89
CHAPTER II: IMPLEMENTATION AND INSTITUTIONAL STRATEGY	
By Ian Traquair Ball	
INTRODUCTION.	II-1
IMPLEMENTATION MECHANISMS	II-6
Metropolitan Development Guide Adoption.	II-6
Policy Plan Adoption	II-11
Operating budget Approval.	II-14
Capital Improvement Program Approval	II-16
Development Program--Capital Improvement Budget	
Approval.	II-23
Plans and Specifications Review.	II-33
Metropolitan Sewer Benefit Determination	II-37
Sewer Charge Review.	II-40
Interceptor Acquisition Approval	II-47
Sewer Service Boundary Delineation	II-52
Peripheral Area Service Approval	II-56

Comprehensive Sewer Plan Review.	11-62
Orderly Annexation Reviews	11-74
County Solid Waste Report Approval	11-78
Solid Waste Facility Permit Approval	11-80
Air Quality Permit Review.	11-83
A-95 Review.	11-85
Comprehensive Plan Review.	11-87
Independent Commission, Board, and Agency Plan Review.	11-90
Metropolitan Significance Review and Suspension. . .	11-96
Protection Open Space Standards Adoption	11-101
Environmental Impact Review.	11-104
Critical Area Designation Initiation	11-108
Conclusion	11-113
INSTITUTIONAL STRATEGY.	11-116

CHAPTER III: SELECTED ANALYSES OF THE METROPOLITAN COUNCIL AS
AN ENVIRONMENTAL MANAGEMENT ORGANIZATION
By Michael E. Gleeson

INTRODUCTION.	111-1
Boundaries	111-2
Policy/Administration.	111-2
A MULTI-FUNCTIONAL REGIONAL JURISDICTION.	111-5
Tradeoffs Among Independent Decisions.	111-7
Tradeoffs Among Policy Objectives for a Single Decision.	111-9
Conclusion	111-18
A POLICY-MAKING BODY WITHOUT DIRECT OPERATING AUTHORITY	111-33
Solid Waste Management	111-34
Sanitary Sewers.	111-41
Discussion	111-42

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INTRODUCTION AND SUMMARY

Federal legislation on water quality requires development of area-wide waste management organizations (Federal Water Pollution Control Amendments of 1972, P.L. 92-500). Currently being considered are changes in existing legislation which would integrate planning and management efforts across water pollution, air pollution and solid waste programs; such changes would result in the creation of area-wide organizations with authority for the planning and management of all three aspects of environmental quality. No such area-wide environmental management organizations currently exist, and there is little information available which suggests how they might be formed.

Case studies of existing arrangements for environmental management can suggest potential alternatives. Examples of such case studies include those reported in Carter and others and in Hein and others.

The Metropolitan Council in the Twin Cities area (and its subordinate boards and related agencies) has been widely acclaimed as an organization already possessing much of the authority for area-wide environmental planning and management and capable of expanding to fulfill the full range of functions envisioned in the current discussions. Descriptions and analysis of the institutional arrangements and operation of the system which is focused on the Metropolitan Council would be a particularly useful case study for the purpose of suggesting how area-wide environmental management organizations might be formed.

Descriptions of the Metropolitan Council already exist (Bosselman and Callies, 1971; Baldinger, 1971; National Capital Region Water and Waste Management Report, 1971; U.S. Advisory Commission on Intergovernmental Relations, 1973; and Bosselman and Feurer in a recent study for the National Science Foundation).² None of these studies, however, describes the Metropolitan Council as an environmental management organization in enough detail or from a viewpoint of regional residuals management, and with sufficiently up-to-date information to be of use in the current discussion.

Three primary tasks were identified in the contract with the Environmental Protection Agency:

1. Write an organizational history of the environmental management system in the Twin Cities area focusing on the Metropolitan Council (Chapter I),
2. Describe the current operating system (Chapter II), and
3. Perform a limited number of specific studies which seek to analyze the operation of the system (Chapter III).

ORGANIZATIONAL HISTORY OF ENVIRONMENTAL MANAGEMENT IN THE TWIN CITIES METROPOLITAN AREA

The Evolution of Metropolitan Governance

An understanding of the larger concept of governance in the Twin Cities is necessary to an understanding of the system of environmental management in the region. While a review of environmentally oriented special districts would be appropriate in some other metropolitan regions of the nation, it is inappropriate in the Twin Cities. The current legislative policy is opposed to further independent agencies. The principal actor among the many metropolitan agencies is the Metropolitan Council.

The Twin Cities region has a long tradition of planning and concern for lakes and open spaces, dating back to the last century. In 1927 a regional planning association was formed only to founder in the depression. The 1927 session of the legislature created the first regional mechanism to address the problems of sewage disposal and then established the Minneapolis-St. Paul Sanitary District in 1933 to implement the recommendations.

As housing expanded across the countryside after World War II, so did the numbers of local governments. Problems of sewage and water supply became more serious but the ability to deal with them was losing ground to fractionized decision making. Shallow wells, septic tanks and high water tables combined to create a public health crisis in the late 1950's. Local governments as well as the citizenry organized in an attempt to reach agreement on metropolitan sewage disposal and inter-governmental cooperation.

The Metropolitan Planning Commission was established in 1957 to assist and advise on problems overlapping municipal boundaries.

The Outlines of Governance Emerge. The 1960's saw the beginnings of an environmental management system in the undertakings of the Metropolitan Planning Commission. The main thrust in preparing a metropolitan plan was to concentrate on the process of development and to bring key elements of the process under public control. The focus was on implementation rather than research techniques. Prominent throughout this 13-agency effort were the inter-relationships between environmental issues and the residuals from the process of development.

The development strategy agreed upon by the Planning Commission, 12 other agencies engaged in the Joint Program and elected governmental spokesmen was to control a limited number of major items at the metropolitan level, leaving all others to local government. Those items were: (1) the two major points of development attraction--major commercial centers and major natural amenities--lakes, rivers, bluffs and similar areas; and (2) the major support systems serving development--highways, transit and sewers. These support systems would be extended in an area of urbanization but denied to low density development. These officials also considered governmental alternatives to implement the development strategy.

A key factor in this recommendation was a Federal Housing Administration policy beginning January 1, 1965, to accept subdivision proposals only in areas with access to central sewer and water. The FHA later changed that policy and sprawl proceeded apace once more.

Throughout the 1960's the state legislature struggled with the sewer question in an attempt to provide service where needed in an economic and equitable fashion keeping to a minimum the adverse environmental effects of the effluent. The conflict, in system terms, was between the central cities single-plant downstream of the urban area, and the suburban proposals that would create sub-metropolitan systems and plants within the urban area. The aspect that was never directly addressed was the trade-off among governments and the conflict between sewage disposal and other uses of the rivers and adjacent land.

The year 1967 saw a coalescing of community opinion about governance for the metropolitan area and the need to resolve the sewer issue in an institution with broader concerns than sewage disposal. A wide variety of individuals and organizations--from governmental leaders, civic groups, labor leaders and corporate heads--agreed on the broad outlines. The legislature acted, establishing the Metropolitan Council as the successor organization to the Metropolitan Planning Commission. The approach was to establish a system of governance that could evolve over the years as the needs and governmental capabilities became clearer rather than trying for a long-term permanent solution. Government structure was seen as a growing thing.

Metropolitan Government Structure and Operation. Three aspects of Council evolution are important: (1) the structure and scope of organizational authority to manage, (2) the planning and development strategy employed, and (3) the method of administering development policy or strategies.

Structurally, the legislature in 1967 created an umbrella agency with authority to veto plans or projects of independent metropolitan agencies if they were inconsistent with the Metropolitan Council's comprehensive guide or the orderly and economic development of the region. The relationship to local governments was advisory, with authority to hold but not veto plans and to mediate disputes with adjacent governments.

In 1969 the Council asked for, and received from the legislature, authority to create a Metropolitan Sewer Board as a subordinate agency replacing existing statutory and joint powers sewer districts. The Council also received further environmental management authority to plan for solid waste disposal and to control development in noise impact areas or environmentally sensitive areas around a new major airport. The latter has never been used because no new airport has been built.

In 1974 the legislature reorganized the metropolitan agencies bringing in the Transit Commission as a subordinate agency of the Council.

The Council was given additional enabling authority over projects of "metropolitan significance" after establishing guidelines and having them approved by the legislature. Also three new ways of assisting local governments were included in the legislation. At the invitation of local governments, the Council may assist with housing and redevelopment. The Council must prepare model ordinances to protect natural resources, making them available to local governments. Further authorization enables the Council to provide local assistance in planning, programming, development regulation and administration.

There are six aspects to the experiment called the Metropolitan Council: (1) it represents people not governments; (2) it is a study commission in process; (3) the relation to general governments is essentially advisory while to special governments it is one of control; (4) there is a separation of policy vested in the Council and operation in subordinate commissions; (5) the role of chairman and executive director is unusual in that the chairman is stronger and the executive director weaker than traditional Twin Cities agencies; and (6) role of the plan is unique in that it is the required basis for exercise of Council authority.

The earliest planning and development strategy of the Metropolitan Council gave great emphasis to waste management. In a November 1967 weekend seminar attended by Council members, the physical aspects of the region were to be organized into three clusters, (1) physical development--the major transportation, utilities, open space and centers; (2) natural resources--land, water, air; and (3) waste management--solid, liquid, gas. In that sense, waste management is equivalent to the Howe and White term residuals management. At one point in discussing solutions to the sewer problem, it was proposed that all aspects of water--supply, storm drainage, sanitary sewer--be handled by one agency. The counter argument, which prevailed, was that the trade offs between water resource and pollution would be hidden. A second argument, still advanced by the Waste Control Commission, is to put all wastes and water supply together so that the profitable items, like sanitary sewers and water, can support those that are more marginal such as solid waste or non-revenue producing like air pollution.

It is not clear why the waste management concept was not pursued. At first, perhaps it was due to the seriousness of the sanitary sewage problem. It was felt that parallel issues, such as air pollution and solid waste, had to be trimmed from the proposed legislation in order to enact the sewer bill in 1969, of crucial importance to the fledgling and fragile Metropolitan Council.

The strategy of waste management rapidly dissipated with the focus on functional systems that resulted from passage of new sewer, solid waste, and open space legislation in 1969 that mandated functional plans. Recently, a comprehensive strategy for the physical development aspect of regional change was prepared, but the waste management and natural resources aspects are not being pursued. This may derive in

part from the fact that the Council has full authority only for waterborne residuals management. And ironically, although it functionally is a perfect fit to the Waste Management Agency envisioned by the Federal Water Pollution Control Amendment of 1972, the Metropolitan Council is not eligible for 208 funds because it does not have local elected officials on its board.

As subsequent sections show, the Council has significant direct and indirect preventive authority for pollution which it is not using. The Development Framework, for example, was not designed primarily to forestall water or air pollution, but it has that potential.

The method of administration is important because it affects the success of any adopted strategy. A plan is not enough; there also must be a development management system or strategy and a commitment to administer it. The present process of administering Council policy is to respond to initiatives of other agencies. Another option set forth in the early years of the Council by a management consulting firm was a top executive group from each agency board and special purpose district working with the executive director of the Council.

In the final analysis, the measure of the effectiveness of governance depends upon an evaluation of how well each part of the system is working.

Status of Environmental Management in the Twin Cities

The Metropolitan Council has a plan called the Metropolitan Development Guide that contains policy and program statements that are: (1) directives to subordinate commissions for sanitary sewage, transit, and open space; (2) the basis for reviewing and approving or suspending plans of independent commission such as for airports and watersheds, (3) the basis for review of local government plans and mediation of disputes, and (4) the basis for A-95 review of all applications for federal programs.

The Council also has a development strategy called the Development Framework, the first chapter of the Metropolitan Development Guide, that sees a process of interaction with functional agencies and local governments to guide development. The Council, by law, presents policy plans and programming guidelines to its three commissions--Waste Control (Sanitary Sewage), Transit, and Parks and Open Space. The commissions prepare programs for Council approval. The transportation policy plan also includes highways, but the program element is not so tightly controlled. The Development Framework also contains a Metropolitan Urban Service Area (MUSA) boundary within which urban services will be made available.

The material from these regional systems would be presented to local governments along with population, employment and other estimates to guide local planning. The local governments--municipalities, counties, school districts--would prepare plans compatible with these regional systems and the MUSA boundary. The local governments would be called upon to expressly address the best location for the urban service line, or the division between urban and rural uses, in their communities. Legislation for mandatory local planning to support this strategy is

before the legislature and likely to be passed. Some of the many implementation measures used to manage this system are described in Chapter II.

The Council can directly control sanitary sewers and treatment plants through its subordinate commission. It cannot directly control septic tanks, but has proposed further authority for the State Pollution Control Agency in this regard. There is indirect control through the existing local sewer plan review, but it would be greatly strengthened with the proposed mandatory plan legislation. The Council's control of sanitary sewage is its strongest control over residuals, because it controls bonding as well as timing, location, and other aspects of facilities. The one weakness is the ineligibility for 208 water quality funding.

The Council has some indirect control over pollution from runoff by its relation to watershed districts and its review of local plans.

The control of solid waste is weaker in that the Council prepares plans but has no ability to initiate solutions. This is discussed more fully in both Chapters II and III. The waste is being disposed of adequately, but a new strategy for recovery is needed and in the making. Operational authority rests with the counties.

Air pollution is weaker still as a direct control. The Council has no authority to implement. It has not pressed for it either because air pollution control is politically thankless however necessary and valuable to the welfare of individuals. Planning funds are not directly available owing to the limitations of legislation and granting agencies. Air pollution is primarily handled by the State Pollution Control Agency and local governments.

Noise is a topic in which the Council would have substantial direct authority around a new major airport should one be built. The PCA and the local governments are the authority in this case. The state has adopted fairly stringent noise standards, but has not yet issued the implementing regulations.

Most of the above authority is quite traditional. It is corrective, applied after the residuals are generated. The Metropolitan Council legally could have great impact on where development occurs and thus prevent some pollution from happening. A step in this direction has been taken with the protection open space responsibility which is purely advisory but says where development should not go.

The other approach of using coordinated programming of investments has never been actively pursued by the Council. On the other hand they may be closer to it than ever before as they combine the Development Framework showing areas to be serviced, the Investment Framework now in process to deal with areas and level of investment, and the program budgeting requirement for all metropolitan agencies that must begin by 1978. The Development Framework itself was not designed in terms of

areas to be served based on air or water pollution beyond the issue of availability of services. The Twin Cities is not unique in its reluctance to publicly declare where development may or may not locate for environmental reasons. Rather the approach used under the Airport Zoning Act was to propose environmental performance standards and let development occur that could meet those standards. This has been incorporated in the protection open space model ordinances.

The Council is no longer explicitly pursuing the concept of waste management (synonymous with Howe and White's residuals management, or EPA's environmental management) and is now using the term to refer only to sanitary sewage as in federal legislation. There is nothing to prevent such an approach however. Were it to endorse the concept, the agency could do more to implement it than most metropolitan agencies in the country. Probably the most helpful steps to bring about such a change on the part of the Council would be changes in federal legislation to support agencies such as the Council with true waste management funds rather than the functional program funds now available, and for EPA to more actively integrate its own planning and programming activities and orient them toward such metropolitan agencies.

In addition to the management capacity described above is that of the other metropolitan agencies themselves, the state agencies--particularly the Pollution Control Agency, the Department of Natural Resources, and the Environmental Quality Council--and the local governments. All these others are not described because they operate without formal agreements with the Metropolitan Council except as described in Chapter II. If this additional authority were coordinated more formally by the Metropolitan Council, the impact would be greater still.

Water-Borne Residuals

Water in Minnesota is of relatively high quality. The metropolitan area is near the headwaters of major river systems. Pure lakes abound. Water recreation is highly prized. For these reasons water quality is important to the area and pollution strategies in the Twin Cities tend to integrate water resource and water pollution. Furthermore, solutions, especially for sewer systems, are integrated with development management as a means of guiding, controlling and directing development locations. This makes direct comparison to the Howe and White waste management process difficult.

Water pollution is the most important of the residual problems. It also has been the most important in metropolitan decisions about governance. Water-borne residuals are addressed in three phases:

(1) Pre-World War II, when the prime concern was getting rid of water-borne wastes and then to reduce river and stream pollution. This period also saw the first inter-governmental cooperation culminating in the establishment of the Minneapolis-St. Paul Sanitary District in 1933 and the first metropolitan treatment plant in 1938.

(2) The Post World War II era saw rapid growth in both population and establishment of separate local governments. This rapid spread of development and fragmentation of governmental decision making created severe problems for the extension of sewer service.

These problems increased in severity; the problems of pollution accelerated. From 1959 to 1961 state health surveys showed that in 39 suburban communities almost half the private homes using shallow wells showed evidence of sewage contamination. The existing central city controlled contract system was not meeting regional needs. However, individual negotiated solutions were not either because of the central city/suburban differences on rates and locational differences on the major river systems. Some suburbs were located on major rivers whereas others were landlocked.

This second phase of the water problem, Post World War II to the mid-1960's, saw simultaneous action on three fronts. First, the Metropolitan Sanitary Sewer District completed a major plant expansion in 1966 increasing capacity and converting from primary to secondary treatment. However, suburban expansion was so great that capacity was expected to be reached by 1980. Secondly, the suburbs were restive under city rate exploitation and commenced action to rectify the situation. Thirdly, legislative activity was moving apace. The Metropolitan Planning Commission was established to plan, guide and coordinate regional development. Pressure continued upon the legislature to expand the sewer district. The northern suburbs were particularly in need. The legislature finally established a separate district for them in 1961.

(3) The third phase saw a return to concern for the quality and use of water resources and the need for an institution that could be concerned with both sewage disposal and resource use. The triggering actions were water quality standards set by the State Water Pollution Control Commission that prevented construction of a treatment plant discharge to the Mississippi by the newly created North Suburban Sanitary Sewer District.

Through the 1960's a number of organizations evaluated alternative governmental decision-making mechanisms with eventual agreement in 1967 on the establishment of the Metropolitan Council. Much of the impetus behind that was the need to solve the inter-related problem of water pollution and water resource. The Council's first task was to figure out a sewage collection and treatment system and get it enacted into law. The process adopted was to decide first how river resources should be allocated. This approach was not to optimize the least cost location of disposal plants but to balance that with alternative needs, enabling regional locations along river systems at places with no conflicting use. A second strategy removed from the legislative arena the technical engineering aspects, focusing instead on issues of policy.

The allocation of costs was hotly contested between central cities and suburbs. As a result, metropolitan sewage handling charges were split between current and future users. Treatment plant costs are spread across the region based on flows while the interceptor costs remain with the service area in which they are located.

The bill passed. The Metropolitan Sewer Board was appointed as a subordinate administrative agency of the Metropolitan Council in July 1969. The Metropolitan Council's plan for sewage collection and treatment was officially adopted in January 1970. All the metropolitan facilities had been acquired by one year later. In April 1971 the Council sold its first bond issue to build new facilities. By the end of 1972 the total in bonding approached \$104 million supplemented by \$45 million in grants.

The results are coming in. Lake water quality is improving with removal of treatment plant discharge. The Mississippi River water quality is at the highest level since record keeping began 48 years ago.

Airborne Residuals

For a metropolitan agency, air pollution is a different issue from water pollution or solid waste--different because air pollution control is a regulatory function rather than a service function. It means limiting people's freedom to do as they wish, therefore causing political problems for elected officials. Also, generalist metropolitan agencies usually lack legal authority to obtain federal funds to plan or implement plans. The governmental authority to implement rests with state and local governments; the funding for planning goes to special purpose service agencies.

The 1967 legislation establishing the Metropolitan Council called for research and study for the control and prevention of air pollution. However, it was 1969 before action was taken. Council staff suggested that air pollution is one aspect of an overall waste management problem including water, air and land pollution. Options for administering the control program were discussed. Legislation was introduced in 1969 but failed to pass.

In 1971 a bill was proposed establishing an air pollution control program within the Metropolitan Council. However, the Council did not encourage its passage because it would have required the Council to assume an operating role to enforce the program. The legislature selected a state-wide alternative with the PCA delegating to local units of government the administrative and implementation functions. This was not wholly satisfactory, so the Metropolitan Council suggested in 1973 that air pollution control is primarily a regulatory-enforcement function with the PCA in the best position to carry out a program in the metropolitan area, coordinated with general Council planning. The Sewer Board proposed assuming the air pollution control function but the Council did not concur contrary to its views in 1968. The Council staff noted the importance of air quality on location of major facilities such as airports, highways, and industrial or commercial complexes. The state PCA in 1972 adopted regulations for control of new sources of air pollution, including referral to the Metropolitan Council for review, and adopted indirect source regulations in 1975.

Missed was a Council opportunity to combine indirect source regulations, had they been continued at the national level, with the Council's "metropolitan significance" responsibility. Also, transportation implementation plans for air pollution could be combined with the Council's other transportation planning authority such as coordination of the transportation planning process, including transit in freeway facilities. Council authority also includes A-95 review for FHA or HUD subsidized housing which could be used to assist in implementing air pollution prevention strategies. Implementation authority rests with the State Pollution Control Agency and the local governments; therefore, more joint arrangements could be pursued more actively under existing legislative authority.

Solid Waste

The problem in the mid-1960's was threefold: (1) the generation of waste was rapidly expanding with population growth, yet sites were harder to come by as local governments tightened their zoning requirements, (2) the larger cities and suburbs had old, outdated incinerators that could not meet air pollution requirements, and (3) the technology was rapidly changing with waste conversion or recovery becoming a potentially valuable source of energy or materials.

In the Twin Cities area refuse collection is considered to be a local function; disposal is considered to be a metropolitan function. In the mid-1960's the only enforcement power at the state level against dumps and landfills rested with the Water Pollution Control Commission.

Consensus was emerging in the community leading to the 1967 establishment of the Metropolitan Council. Refuse disposal was seen as needing a regional solution. The legislature gave the Council planning and coordinating powers in 1967 but no operating authority. Municipalities, both city and suburban, sought more action on the solid waste problem.

The Metropolitan Council appointed a Solid Waste Advisory Committee and hired a consulting firm to recommend solutions. Sanitary landfill was recommended as the basis for management of the solid waste residuals over the next 10 year period until waste recovery systems would be available. The Council would develop the plan, defining site location and capacity, as well as setting standards for their operation. The counties, subject to agreement with the Council plan, would acquire, finance and operate sites either directly or by licensing private operators.

Two factors caused concern among some Council members and staff-- (1) if the solid waste function were given to the counties, it would be more difficult for the proposed sewer board to evolve into an overall waste management agency and (2) would the counties accept waste from outside their territory and could they fund and operate a regional plan for incineration or waste recovery requiring large capital investments concentrated in a limited number of jurisdictions?

But the legislative die was cast. Proposed projects would have to be consistent with the Council's system plan, but the Council had no way to initiate projects. The counties got the implementing authority. A shared power system was evolved among the State Pollution Control Agency, the Metropolitan Council, the counties and private haulers.

The energy producing possibilities of solid waste became economically feasible earlier than the 10 year time table because of the energy crisis. The 1974 Metropolitan Reorganization Act required the Council to make recommendations to the 1975 session of the legislature for solid waste recycling facilities in the seven-county area. There currently are many competing public and private proposals. Today the key questions are: Who owns the waste? Who has the authority to allocate it? Should it go to the public or the private sector? Disposal soon will not be a problem. Making "best" use of the resource will be a problem. New legislation will be sought to clarify roles further. Regardless of that need, there is adequate authority to prevent pollution from solid waste.

Noise

The noise issue in the Twin Cities centers on the Minneapolis-St. Paul International Airport. Neighboring municipalities objected to jet aircraft noise and banded together establishing an agency, the Metropolitan Aircraft Sound Abatement Council, to study alleviating noise impact on nearby residents.

When the MAC proposed in 1969 that a new airport be built north of the Twin Cities, disagreement arose between citizens and groups, both north and south, over issues of economic development and environmental concerns over soil, water, wildlife and noise problems in the northern site. In 1969 the Metropolitan Council suspended the northern site plan as being incompatible with the orderly and economic development of the region, basing its actions primarily on environmental concerns.

Then the Council was joined by the MAC in preparing an Airport Zoning bill which the legislature adopted in 1969. The Act provides that criteria for noise and natural resource protection are to be established by the Council. The local governments must prepare plans and development controls to insure land use compatibility with the Metropolitan Council guidelines. Also included is a tax sharing provision, as requested by the local municipalities, which allows all local units of government to share the revenue from development near any new airport.

Noise continued to be a problem around the existing major airport, resulting in a court suit authorizing awarding damages where the property owner sustains a definite and measureable loss in market value and where the invasion of property rights are repeated with a reasonable probability that they will be continued in the future. The noise issue is less active now. The Metropolitan Airports Commission has an active noise reduction program and the arrival of larger capacity planes plus the downturn in the economy have limited the expected increase in noise. Forecasted noise studies show an expected continued decrease in the future.

The impact of U.S. Department of Housing and Urban Development criteria used in FHA mortgage guarantees depends on the extent to which developers attempt to obtain FHA certification for their projects.

The prime authority for noise control is vested in the State Pollution Control Agency. The Metropolitan Council authority would come into being only if a new airport were to be built. Currently Council authority is limited and indirect. It has no authority over the Airports Commission except for projects over \$2 million and plans for new development or change on the airports. A noise policy relating to housing is a part of the A-95 review process, but the Council has no direct authority to stop development.

Other Environmental Measures

The term environmental management in the Twin Cities encompasses both waste (or residuals) management and natural resource management. Protection open space is tied to the hydrological cycle; protecting stream valleys and natural wetland areas enables pollutants to be filtered out of storm water (a waste management function) and also recharges ground water (a resource management function).

The evolution of the concept of protection open space is seen from the 1960 studies of the Metropolitan Planning Commission and on through Ian McHarg's 1969 study, the first ever for a metropolitan region.

In 1967 parks and open space needs were seen as metropolitan in scope and provided one impetus for the establishment of the Metropolitan Council by the state legislature. In 1969 a protection open space bill, called the Airport Zoning Act, was passed. The state Shoreland Development Act, and Floodplains Act also were enacted in 1969.

The year 1970 saw adoption of the Parks and Open Space Chapter of the Metropolitan Development Guide, meeting HUD's requirements and the Council's legislative charge. The legislature has given the Council considerable authority over recreation open space although it was long in coming because of opposition from the counties, especially the Hennepin County Park Reserve District. Protection open space authority is still evolving with the Council currently proposing, under legislative mandate, model ordinances as well as standards and criteria for land uses and development which local governments may then enact and enforce. If these latter devices become binding rather than a local option, they should have considerable effect in reducing future costs to correct run-off related pollution.

IMPLEMENTATION AND INSTITUTIONAL STRATEGY

Introduction

A description and analysis of the Council, its surrounding organizations, and its broad range of implementation and management tools is useful for suggesting how other areawide environmental management organizations might be formed or adapted to meet the requirements of federal legislation.

Accordingly, the study sets out to describe and analyze the strategy for regional environmental management as it has evolved since 1967 in the Twin Cities area. The study examines the array of implementation tools used by the Council, the ties between the implementation tools and Council policy statements, linkages between the implementation tools themselves, and the relationship of this array of management mechanisms to the broader institutional structure of which the Council is a part.

The study relied heavily upon records, file data, and personal interviews, as well as the first-hand experience of the author as an employee of the Metropolitan Council from 1970 to 1975. Information was gathered on all known, and formally adopted, procedures, guidelines, program regulations, and other administrative rules. After a list of management tools was derived, Council referral files were examined to determine how staff environmental reviews were undertaken. Material from other regional agencies was examined as supplementary sources. Interviews were held with a broad variety of agency staff who had been involved in the use of any of the various management techniques. Where staff studies had been made evaluating the use of any of the techniques, the study material was included as appropriate.

Implementation Mechanisms

Twenty-three different implementation mechanisms employed by the Metropolitan Council were examined in detail, with emphasis on their purpose, their enabling authority, practical experience in application, and changes in light of that experience. These management tools include:

1. Metropolitan Development Guide adoption
2. Policy plan adoption
3. Operating budget approval
4. Capital improvement program approval
5. Development program and capital improvement budget approval
6. Plans and specifications review
7. Metropolitan sewer benefit determination
8. Sewer charge review
9. Interceptor acquisition approval
10. Sewer service boundary delineation
11. Peripheral area service approval
12. Comprehensive sewer plan review
13. Orderly annexation review
14. County solid waste report approval
15. Solid waste facility permit approval
16. Air quality permit review

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17. A-95 review
18. Comprehensive plan review
19. Independent commission, board, and agency plan review
20. Metropolitan significance review and suspension
21. Protection open space standards adoption
22. Environmental impact review
23. Critical area designation initiation

Several patterns are evident in the way in which Council utilization of the above management tools has evolved since 1967.

First, the Council has given increased emphasis to linking implementation decisions to prior adopted policy, to requiring conformity of implementation strategies with the adopted policy framework. In adopting the Waste Management Development Guide/Policy Plan in 1975, the Council provided much more explicit direction to various implementation mechanisms than has been the custom, and its newly adopted administrative procedures required that policy issues that may arise during the course of implementation be resolved in the context of the adopted policy plan.

Second, there is a greater effort to coordinate the various management tools with each other, through information coordination between Council and other agency staff, through Council enabling legislation, and through the Council's own procedural regulations.

Third, many of the twenty-three mechanisms have been modified since their initial adoption, indicating an inherent flexibility in the Council's management strategy. Adoption of a particular implementation instrument has not placed the Council in a static posture.

Fourth, there has been an increasing tendency on the part of the Council to refine its various implementation mechanisms in a more detailed and comprehensive form. The assumptions about shared policy goals and program results have given way to the practical experience of complex technologies, increased funding requirements, and over-lapping and competing policy goals, requiring the Council to define more carefully its own responsibilities in policy formulation, development coordination, and management vis a vis other governmental agencies.

Institutional Strategy

The application of individual management tools by the Council has occurred within a larger institutional complex of local government, special district, state and federal agencies. To a certain extent, the Council has been successful in shaping that larger context to permit it to carry out the Council's own institutional goals. But to another extent, the Council's role has been tempered by the constraints imposed upon it by other agents.

The Council has generally followed the model of the Metropolitan Sewer Board - Metropolitan Council relationship, with the Board's management role subordinate to Council plans and policy. The Council has sought the responsibility for preparing an areawide plan for a regional function, together with the authority to review and approve the operating and capital

budget of the regional management agency to ensure that the overall system plan was carried out. This model was considered sufficient to provide the Council with the necessary tools to effectively coordinate one regional function with another, and at the same time relieve the Council of detailed operating responsibilities so that it could devote its maximum efforts to its primary role of planning and coordination.

Various institutional strategies have been proposed by the Council to the Minnesota legislature, incorporating the above model, for environmental problems in the Metropolitan Area involving air quality, solid waste disposal, sewage collection and treatment, and resource recovery.

That institutional strategy has been modified in practice since 1967. The Council has altered its views on the usefulness of the planning/operating dichotomy, as an organizational focus for its relationships with other agencies. The increasing complexity of policy issues and the desire to see its policy decisions put into action have forced the Council to provide stronger management guidelines than it has in the past. Implementation of policy, whether by the Council or other agencies, now receives as much attention as the formulation of policy itself.

The experience of the Council also shows that devising an institutional strategy for regional environmental management does not mean having to make exclusive choices. That is, to decide to establish a Metropolitan Sewer Board does not mean the exclusion of local government from the functions of sewage waste collection and treatment. Rather, the emphasis becomes one of developing mechanisms which can link existing agencies to one another more explicitly, drawing on the flexibility and adaptive capacity of the existing institutional framework.

And finally, regional environmental management must take into account the fact that different agencies respond with varying degrees of initiative, resourcefulness, and follow-up when regional goals are at stake. However, this variation has not prevented the Council from working effectively through existing governmental institutions.

SELECTED ANALYSES OF THE METROPOLITAN COUNCIL AS AN ENVIRONMENTAL MANAGEMENT ORGANIZATION

Introduction

This chapter reports the results of selected analyses of the Metropolitan Council as an environmental management organization. The analyses deal with the institutional arrangements employed by the Council--institutional arrangements defined here as decision-making structures and classified following the framework used in Chapters I and II. The classifications are related to the theoretical work by Edwin Haefele and others, which help to pose some important and testable hypotheses about the institutional arrangements employed by the Metropolitan Council. The first study deals with one special characteristic of the Council as an environmental management organization--its being a multi-functional regional jurisdiction. The second study deals with another special characteristic of the Council--its being a policy-making body without direct operating authority (for the most part).

A Multi-Functional Regional Jurisdiction

Haefele's predictions for the Metropolitan Council are that it will make trade-offs across functional and geographic boundaries in making decisions. Independent decisions of different functional questions in different local jurisdictions will be balanced off against each other, and for each independent decision, policies from a variety of functional areas can be applied. Thus, in the first case, for example, sewer construction in one municipality can be balanced off against park acquisition in another. As an example of the second case, environmental, fiscal and social policies can all be applied to a single decision on a housing construction application.

An investigation of A-95 housing reviews conducted by the Metropolitan Council provides a partial test of Haefele's predictions. There is evidence of trade-offs having been made across geographic boundaries within the single functional area of housing; this situation only occurred, however, when there was an applications process which allowed a number of applications to be considered jointly. There is no evidence of trade-offs having been made among independent decisions which crossed functional boundaries.

In making single independent decisions on housing applications, the Council can and seemingly did not--if not trade off among--social, fiscal, and environmental factors in making its decision; while it did not consider all factors (including economic feasibility, for example) it did consider both the positive and negative aspects of a wide range of factors. However, the Council has been limited in its ability to make trade-offs by the constraints imposed by the A-95 review process. Time deadlines have forced staff to take a leading role in the making of trade-offs. The scale of the decisions and the seriousness with which A-95 review comments are taken by the Federal agencies are other inhibiting factors; A-95 review is seen to merit substantial Council time and effort

only if groups of applications can be treated together or if the review is used to signal the Council's special interest in some particular Council policy.

The weights given different factors by the Council have varied with the type of housing proposed--subsidized or unsubsidized. In the case of subsidized housing, virtually all of the projects were given negative comment for social reasons; on the other hand, the Council noted positive aspects of all projects as well, provision of services and facilities the most commonly noted. In the case of market-rate housing, reasons given for critical comment were more varied: conflict with local or regional plans, lack of utilities or services, environmental problems, and project/site problems. Fewer positive aspects were noted; the most common were provision of services and facilities, project/site design, and social benefits.

Weights given different factors have also changed over time, particularly with the increased explicitness and measurability of factors. Reviews in the earlier years gave primary weight to environmental impact and provision of utilities. Only with an improved low-and-moderate-income housing allocation plan adopted in January 1973 did social factors become frequently cited. Only with consideration and adoption of a more explicit regional growth management plan (Development Framework) in 1974-5 were regional plans frequently cited. Interestingly, as the Development Framework was used increasingly, environmental impacts were less frequently cited. The Council's housing program manager explains this as a difference in the explicitness of Council policy; environmental policies do not contain standards which can be easily applied to housing reviews whereas the Development Framework does.

The one major factor which is not considered by the Council in its A-95 housing reviews is the project's economic feasibility; and it is this reason which HUD has used most often in rejecting projects. Whereas HUD and the Council have made consistent decisions on projects for the most part (Section 8 proposals being the major exception), they have done so for different reasons. This is a classic example of different decision makers using separate criteria to approach the same decision. Perhaps only in contrast to this situation does the point of Haefele's argument for a multi-functional regional jurisdiction become evident.

Everything said so far was taken from a study of A-95 housing reviews which investigated (1) whether decisions on certain housing reviews were made in conjunction with and traded off against any other independent decisions, and (2) whether the factors considered in arriving at single housing review decisions were traded off against each other. One other unique activity of the Metropolitan Council was also investigated. At a broad policy level the Council has stated its willingness to take low-and-moderate-income housing effort into account in prioritizing applications for grants not directly related to housing (Policy 31). In practice, this policy has been applied successfully only to a limited number of applications in certain functional areas.

The policy has been applied successfully to park applications; in fact, the trade-off between low-and-moderate-income housing effort and the other major factor considered (recreation score) has been made explicit--one--third, two-thirds.

All of this evidence has faced fairly rigorous tests. Together it provides at least indirect and limited confirmation of Haefele's predictions.

A Policy-Making Body Without Direct Operating Authority

The Council is designed as a policy-making body without direct operating powers; those powers are in the hands of subordinate commissions and other units of government. The Council, however, has a variety of mechanisms at its disposal which are designed to retain policy control over the operating agencies.

This arrangement seems to be at variance with a whole tradition of descriptive writings in public administration. These writings would suggest that the dichotomy between policy-making and administration does not hold, that the administrative body does indeed make policy and/or the policy-making body is involved in administration.

This paper analyzes the relationship between the Council and its subordinate commissions and other units of government in two cases significant for environmental management. In doing so it will draw on research studies which Metropolitan Council staff have undertaken as well as on the previous study in this chapter and the descriptive papers by Einsweiler and Ball.

Certainly, these studies do not yield a definitive summary statement on the Metropolitan Council's ability to set policy which determines final output. Likewise, these studies do not treat all questions on deviation of output from policy, and on factors which relate to that deviation. However, some things can be said.

Council policy has been reflected in final output to a remarkable extent in the case of solid waste management. This is true of very general policy, as for example the move from open dumps to sanitary landfills, and of quite specific policy, like the location of landfills relative to neighboring land uses. This match of policy statement with output seems to have been particularly true where Council policy was also in the interest of the other agencies and governments involved, and/or where the public cost of implementation was lowest. Where Council policy was most ignored was in the difficult area of distribution of landfills across counties; this was also one area in which the Minnesota Pollution Control Agency (MPCA--a state agency) took relatively little interest and in which the counties chose to take varying levels of interest and to see their interest in different ways. Other policy areas most ignored in practice were those which required monitoring and continuing administrative expense, for example, maintenance of landfill sites.

The Council seemed to be able to establish a greater and more consistent match of its objectives with administrative actions when those actions were taken by its own subordinate board, the Sewer Board (Metropolitan Waste Control Commission), than when those actions were taken by more distant agencies and other governments; the Council was able to see its comments on local sewer plans included in Sewer Board reviews, but had more difficulty having those comments considered by the MPCA and did not even know for the most part whether the local governments were taking those comments into consideration at all in their activities.

A shift from general to more measurable policy objectives enabled the Council to operate more swiftly and decisively, as suggested in the study of A-95 review of housing proposals. What that study also shows, however, is that other governments with decision-making authority on the question under consideration are likely to make their decisions on their own terms, regardless of the explicitness of Council objectives. Seemingly, the match of objectives between the Council and other agencies and governments is more important than explicitness of Council objectives, at least in areas where Council authority is limited to review and comment. However, explicitness by itself is also an advantage as seen by the increased use of Policy 31, after explicit measures of low-and-moderate-income-housing effort had been developed.

Ball concludes in Chapter 11 that the Council has become increasingly involved in the management process over time, or at least has increasingly come to see the management consequences of its policies and has taken an increasing role in devising and monitoring (if not operating) those management processes. Does this constitute an affirmation of the findings of other studies on policy-administration relationships? Those studies suggest that administrators make policy and/or policy-makers are involved in administration. Ball's observations would tend to confirm the latter expectation, at least to some extent. Likewise, most of the findings of Council staff and the A-95 review study would suggest that, while Council policy may be reflected in final output, there is considerable opportunity for administrative interpretation and indeed for policy-making by operating agencies and other governments as well.

Ball in Chapter 11 and Einsweiler in Chapter 1 conclude that the distinction between policy-making and implementation has been important in the history of the Council's development and remains important in people's thinking today. They also conclude, however, that the distinction is defined differently by different individuals, and that the distinction has changed over time. They question whether the distinction is clear and stable enough to be descriptively useful. Surely, both notions--policy and implementation (or administration or operation)--are elusive and difficult to capture even conceptually, much less to assign to specific actions. Perhaps there is a need to re-evaluate these notions and to seek a redefinition. The chapter concludes with an attempt at such a redefinition.

Footnotes

¹Steve Carter, Murray Frost, Claire Rubin, and Lyle Sumek, Environmental Management and Local Government, (Washington, D.C.: Environmental Protection Agency, February 1974); and C. J. Hein, Joyce M. Keys, and G. M. Robbins, Regional Governmental Arrangements in Metropolitan Areas: Nine Case Studies, (Washington, D.C.: Environmental Protection Agency, January 1974).

²Fred Bosselman and David Collies, The Quiet Revolution in Land Use Control, (Washington, D.C.: USGPO, 1971); Stanley Baldinger, Planning and Governing the Metropolis, (New York: Praeger, 1971); Environmental Protection Agency, National Capital Region Water and Waste Management Report, (Washington, D.C.: EPA, April 1971); Ted Kolderie, "Governance in the Twin Cities Area of Minnesota", Regional Governance: Promise and Performance, Volume II, (Washington D.C.: Advisory Commission in Intergovernmental Relations, 1973); Fred Bosselman and Duane Feurer, "Coordination of Environmental and Land Use Controls", Status Report, April 21, 1975 of a contract for NSF Grant #GI 43461.

³Richard S. Howe and Nicholas L. White, Development of Residual Management Strategies, (Washington D.C.: Environmental Protection Agency, June 1975), pp. 17, 18.

⁴Ibid., pp. 21, 22.

⁵Ibid., pp. 9, 10.

⁶Ibid., pp. 31-34.

CHAPTER I

ORGANIZATIONAL HISTORY OF ENVIRONMENTAL MANAGEMENT IN THE TWIN CITIES METROPOLITAN AREA

By Robert C. Einsweiler

TABLE OF CONTENTS

INTRODUCTION	1-2
Some Initial Considerations	1-2
Method Used in Preparing the History.	1-4
Format of the History	1-4
THE EVOLUTION OF METROPOLITAN GOVERNANCE	1-6
The First Flowering of "Metropolitan"	1-7
The Era of Governmental Fragmentation	1-9
The Consensus on Metropolitan Governance.	1-13
Metropolitan Government: Structure and Operation.	1-25
WATERBORNE RESIDUALS	1-44
Late 1800's Up to WW II--Concern with River Pollution	1-44
Post WW II Up to the Mid-1960's--Concern with Ground Water Pollution.	1-45
Concern for Water Quality and Water Resource Use.	1-49
AIRBORNE RESIDUALS	1-60
SOLID WASTE.	1-67
NOISE.	1-75
OTHER ENVIRONMENTAL MEASURES	1-82
THE EVOLUTION OF ENVIRONMENTAL MANAGEMENT.	1-89

TABLES AND FIGURES

TABLE 1: Composition of 10 Proposals on Governmental Framework for the Twin Cities Area	I-22
FIGURE 1: The Evolution of Metropolitan Government Structure.	I-24
FIGURE 2: Metropolitan Council Relationships.	I-26
FIGURE 3: Planning Areas: Development Framework	I-35
FIGURE 4: Development Planning Process for the Metropolitan Area. . .	I-36
FIGURE 5: Sewage Treatment Works by 2000.	I-55
FIGURE 6: Proposed Service Areas and Interceptor Corridors to Year 2000	I-56

INTRODUCTION

The Environmental Protection Agency asked for a history of the Environmental Management System in the Twin Cities area focusing on the Metropolitan Council and including: (1) identification of the environmental management problems which prompted development of this system, (2) identification of strategies designed to address those problems, (3) identification of factors which facilitated development of those strategies, and (4) description of the institutional arrangements considered and chosen for implementing those strategies. The analysis was to be undertaken to the extent possible within a regional residuals-environmental quality framework as currently used in the Quality of the Environment Program of Resources for the Future¹ and EPA's regional environmental management program in the office of Research and Development.² Therefore the history makes continuing reference to the Bower and Basta and Howe and White studies that are the basis for much of the RFF and EPA approaches.

Some Initial Considerations

The Bower and Basta and Howe and White studies are highly analytical, theoretical, and rational in nature. The activity in the Twin Cities metropolitan area, as in most others, is not rational in this same theoretical sense, although it is highly rational in a political sense. The history will attempt to illustrate these differences. Several of the items are discussed more thoroughly in the Epilog.

Scope of Metropolitan Council activities. The orientation of this history is to environmental management, particularly to physical aspects. Because social and economic planning activities and services are not mentioned, some may assume they are not performed by the Council. Nothing could be further from the truth. The agency is actively engaged in housing for low and moderate income families, manpower programs, criminal justice, ageing and a host of other activities. The agency's annual budget runs between 3½ and 4 million dollars, most of it committed to staff salaries and consultants.

Scope of the terms environment and waste. Bower and Basta note that the term environment probably has as many definitions as there are people trying to define it.³ The Environmental Protection Agency uses the term environmental management somewhat synonymously with what Howe and White call residuals management, the management of the leftovers of production and consumption processes.

The term environmental management in Twin Cities Metropolitan Council usage embrace both residuals and natural resources. Indeed, the Environmental Planning division of the Council has responsibility for both topics. Their use of the term waste management, until recently, has been synonymous with Howe and White's residuals management. Unfortunately since passage of the federal Water Pollution Control Amendments of 1972, the term has been restricted to the definition in that act of waterborne residuals.

For purposes of this history, then, the term environmental management will encompass both the residuals or pollutants and the natural resources or media being polluted. Waste management and residuals management will be used interchangeably.

The planning process. The process described by Howe and White is essentially performed by professionals up through the stage of presenting alternatives to decision makers for choices. The authors urge that social, economic, and political constraints not be introduced until the end in order that potentially desirable alternatives are not set aside without evaluation.

In the Twin Cities a much more open process is pursued with elected officials and professional staffs interacting from the point of issues or problems right on through to organizational alternatives. The disadvantage is that some of these options are closed in the process; the advantage is that both sides are mutually educated as the process unfolds and action is taken at the end.

Further, development, natural resources and pollution strategies are considered simultaneously so some other options may be closed as the elected officials make judgments about balancing these interests. The disadvantage, again, is a lack of theoretical clarity found in Bower and Basta or Howe and White; the advantage is that the process does not suffer from the opposition that arises when one function is optimized at the expense of others. This process is currently being explicated in a set of HUD-funded reports by the Metropolitan Council.

Finally, it is common practice in the Twin Cities to pursue parallel interacting studies of technical problem solution and institutional design. These differences make some direct comparisons impossible. However, comparisons are made to the extent possible.

Organization--single or multiple agency. In this history, the environmental management organization is seen as multi-agency and not single agency. It must be more than one in the Twin Cities, because it is the Metropolitan Council and other implementing agencies. It is inter-agency at the metropolitan level; it is inter-governmental when combining state agencies, metropolitan agencies and local governments. The standards for environmental quality are essentially set by the state agencies--the Pollution Control Agency, the Department of Natural Resources and the Environmental Quality Council--or by federal agencies acting through these state agencies. The metropolitan agencies primarily handle services that transcend local boundaries, services that help abate pollution. The local governments possess direct land use control which is not in the hands of either state or metropolitan agencies. Therefore the environmental management system and organization should consist of an integration of the state agency authority with the metropolitan system control authority and the local government land use authority. This concept is somewhat larger in

scale than what is actually being pursued in the Twin Cities, but it is the direction things are moving and therefore will be used as a frame of reference. Time and space has necessitated giving greater attention to the authority of the Metropolitan Council than to the other agencies.

Institutions or people. It is people, not institutions, that make things happen. Therefore this study will focus considerable attention on the individuals and the public setting which made things happen and trace through some of the roles played. Put another way, the institutions with different people probably would have had a quite different effect. Weak institutions with some of the leaders of the Twin Cities could still have done the job. Stronger institutions with lesser people probably would have achieved less than has been accomplished. The history also gives some attention to the relation among policy bodies, between the Metropolitan Council and its staff, and between the staffs of the various organizations in order to understand how the term organization really should be read.

Method Used in Preparing History

The method used for the organizational history was a four-step process. First, a large series of documents, all the easily and readily available ones, were assembled and relevant passages marked based on the general outline provided by the contract. Second, Mr. Einsweiler dictated a first rough history based on his recollection of events from 12 years as an employee in the Metropolitan Planning Commission and Metropolitan Council and subsequent understandings from continued contact with the various agencies involved in this study. The third step was expansion and revision based on newspaper accounts together with the minutes recording the decisions of the various agencies. The revised draft was further tested, augmented and amended based on a series of personal interviews with key actors who played major roles during the evolution of the Twin Cities metropolitan organizations.

Format of the History

While it may be desirable to pursue the history in the order of the contract from problems, to strategies, to institutional arrangements, that is not the way the work can be most readily related. The reason is quite simple; that is not the way it occurred. In fact the work to create individual functional institutions ran in parallel with each other and with actions to create a comprehensive integrative institution in the metropolitan area known today as the Metropolitan Council. Therefore, the approach used was to follow the creation of the comprehensive organization and the various functional concerns separately and then integrate them at the end to show how these separate actions are moving toward the concept of environmental management contained in Howe and White and Bower and Basta.

Footnotes

1. This is expressed in large part in Blair T. Bower and Daniel J. Basta, Residuals--Environmental Quality Management: Applying the Concept, (Baltimore: The Johns Hopkins University Center for Metropolitan Planning and Research, October 1973).
2. This is expressed in staff papers and draws on Bower and Basta cited above and Richard S. Howe and Nicholas L. White, Development of Residuals Management Strategies (Washington, D.C.: U.S. Environmental Protection Agency, 1975) among others.
3. Bower and Basta, p. 1.

THE EVOLUTION OF METROPOLITAN GOVERNANCE

Environmental management in the Twin Cities can be understood only as part of a larger concept of metropolitan governance in which the Metropolitan Council is the principal actor in a relatively large cast.

Those from elsewhere who come to study the Metropolitan Council always inquire as to what is unique about the urban setting of the Twin Cities that enabled such an institution to be created. They look at ethnic backgrounds, religious preferences, income levels and other factors. While these may have some effect, the real answer in the view of this writer, is that in this region citizens still actively participate in government. They believe that as individuals acting through their governments they can have an effect on change.

Perhaps the epitome of this view is one suburban mayor who desperately needed sewer service for his community. He identified the three key actions that would be necessary to achieve a metropolitan sewer system: reapportion the legislature to gain more suburban votes, prevent the central cities from making a profit on sewer service to suburbs, and eliminate absolute home rule in the metropolitan area. He went on to personally finance the suit for reapportionment, the first in 50 years and won. Next he assembled an association of suburban officials to establish, with professional assistance, the magnitude of profit the central cities were making. Taking that to the legislature where a series of events made the time propitious, a law banning profits was passed. The third item was moved through the legislature by the most powerful man in the Senate when it met his purposes in creating the Metropolitan Council. In what must be considered fitting, that mayor was named the first chairman of the new Metropolitan Sewer Board, established more than ten years after his personal challenge began.

While everyone cannot devote the amount of time and money or be as successful as this mayor, the pattern is sufficiently common in the Twin Cities that local people would not regard it as unusual. That is the key. What happens, then, is that a number of individuals and groups, each in its own setting, develops potential solutions to problems. Through a process of joint meetings and individuals working as part of more than one group, a consensus is hammered out.

A second critical factor is that there are two central cities and no concentrated seat of power. Minneapolis, the largest of the one-hundred plus cities in the metropolitan area has barely over one fifth of the regional population. It is for this reason that committees are necessary. It is for this reason that the legislature has been looked to for assistance. Further, there are almost twice as many legislators for Minneapolis as there are aldermen and over seven times as many legislators for Hennepin County residents as there are county commissioners. The legislators are not remote. Those who prefer to look under other rocks for other answers to the Twin Cities scene are referred to some of the many excellent writings about the metropolitan area, and the Metropolitan Council and its creation.

The authority for environmental management is spread among state, metropolitan, and local agencies. Therefore all will be followed. But the focus will remain on the evolution of the comprehensive or generalist metropolitan agency, because that is the only potential locus for management in the Twin Cities to occur. In Seattle, one may choose the evolution of the special purpose sanitary district rather than the Council of Governments. In the Twin Cities, however, legislative policy is opposed to new independent, metropolitan, special-purpose districts.

In retracing the evolution of governance, an attempt will be made to follow three separate but related threads: (1) the structure and scope of organizational authority to manage, (2) the planning and development strategy employed, and (3) the method of administering development policy or strategies.

The evolution spans about 50 years although the most telling change has occurred in the past 10 years. Without the first 40 years, it is unlikely the last ten would have occurred as they did.

The First Flowering of "Metropolitan"

Planning as a public endeavor began early in the Twin Cities. "Formal city planning came to the Twin Cities following World War I as part of the great explosion in the nation's planning activities. Minneapolis established a Planning Commission in 1919 that played a prominent role in the city's development until the 1930's...St. Paul established a Planning Board in 1920 which, in contrast to its sister city, had relatively minor impact on the city's subsequent development."²

John Nolan was the leading planner for St. Paul at the time and prepared its plan. A 1912 planning study published in 1917 and known as the Plan of Minneapolis was prepared by architect Edward H. Bennett. Bennett had previously served as Daniel Burnham's chief assistant in the preparation of the 1908 Plan of Chicago.³

There was a long tradition of concern for public amenities in the Twin Cities area. Reginald Isaacs, Professor of Regional Planning at Harvard, noted in 1962 that at least in Minneapolis, recognition of public responsibility for parks and civic beauty dated to the middle of the 19th century. By 1883, Minneapolis had 80 acres of parkland for its 100,000 residents, a newly created board of park commissioners, and a long range park plan prepared by a consultant. The same consultant in 1888 proposed a single park and major boulevard plan for Minneapolis and St. Paul combined. A decade later, Minneapolis was seriously endeavoring to implement this plan. Isaacs writes that "the City Beautiful concept and movement is attributed to the Chicago World's Fair of 1893. Actually, Chicago was four times the size of the then-Minneapolis before it did anything about parks and beautification. He adds that these early plans for park systems, lake drives and boulevards have been realized, at least in good part."⁴

Shortly after 1900 there were one half million people living in the Minneapolis/St. Paul area. By the mid-20's the number had grown to three-quarters of a million. A community of this size certainly warranted consideration in metropolitan terms. "It first received such consideration when in 1925 a group of interested citizens under the leadership of Professor Robert Jones of the University of Minnesota's School of Architecture organized themselves into a voluntary

association. After two years of preliminary work, the group called a meeting at the University on January 18, 1927 for the purpose of organizing a regional planning association. As far as is known, this was the first time either 'regional' or 'planning' was used in connection with the problems of the area. An informal agency, called the Metropolitan District Planning Commission was formed in 1928 as an outgrowth of this meeting.

"The group stated as the purpose of the emergent agency the formulation of plans for the creation of a planning region consisting of Minneapolis, St. Paul and certain surrounding territory. More specifically, the purpose was to study plans and advise in matters of common and of Intercommunity interest within the region, such as the establishment of arterial highways, inter-urban transit, boulevards, bridges, parks, recreational agencies, zoning, conservation of lakes, water supply, sewerage, garbage disposal, a grand round drive and other elements of regional planning. It is interesting that the planning region envisioned by the group included the seven counties, which in 1962 were included in the jurisdiction of the Twin Cities Metropolitan Planning Commission.

"The new agency was to be financed by contributions from four classes of membership. The Commission was to be composed of 26 members, a few designated ex officio, the bulk to be named by organizations broadly representative of the region's public and civic life. It was to conduct basic studies, prepare a regional plan and advise the units of government of the area.

"This early effort at regional planning was nullified by the Commission's failure to command financial support, by its inability to make a sale to the politicians and perhaps most of all by the on-slaught of the Depression. Impressive on paper, the Metropolitan District Planning Commission never actually got off the ground. The parallel in thinking between the abortive effort of 1927-28 and the movement which brought the Twin Cities Metropolitan Planning Commission to fruition a full thirty years later is striking."

The Metropolitan flower did not die. It merely took root in more fertile soil than "recreational agencies", "conservation of lakes", and "grand round drives". As explained more fully in the section on waterborne residuals, Minneapolis and St. Paul individually had been dumping raw sewage into the Mississippi River for forty or fifty years. It was too much. The state health department called upon the two city governments to no avail.

Then the Minnesota and Wisconsin state legislatures jointly requested the federal government to study the pollution of the Mississippi and make recommendations for its abatement in 1925. This was done. Acting on that report, the 1927 Minnesota legislature created the Metropolitan Drainage Commission to recommend means of implementation.

At that time the population of the seven-county metropolitan area was about 900,000, of which 80% lived in Minneapolis and St. Paul. The

number of local governments in the metropolitan area was about 160 mostly small and outlying. Representation on the Drainage Commission reflected these numbers and was composed of one representative selected by the City Council of Minneapolis, one from St. Paul and the third representative was selected by the Governor.

It is appropriate to say that the Metropolitan Council had its roots in the creation of this Drainage Commission. It was the first metropolitan agency established by the legislature. This act signified that the two cities acting individually could not solve the problem to their mutual benefit.

The Era of Governmental Fragmentation

In 1933 the legislature established the Minneapolis/St. Paul Sanitary District (MSSD) based upon the recommendations of the Drainage Commission. This act provided for "two or more contiguous cities of the first class, when endangering public health, to organize and incorporate into a sanitary district."⁶ The era of independent special service districts had begun. It was to continue and be given a push by the growing creation of suburban cities and villages, almost all small and unable to provide a full range of service by themselves.

Representation on the MSSD was similar to the Drainage Commission except that the law stated that the chairman must be appointed by the Governor from outside the two cities. This reflects both the territorial jurisdictions and the financing of these institutions at the outset. The outside chairmanship also undoubtedly reflects two other facts: that the two cities, however much they could agree on acting jointly, found it easier for the Governor to appoint a chairman from neither of their cities to maintain parity when the votes were cast; and that other cities in the state would be affected by the actions of the commission. The jurisdiction of MSSD was appropriately limited to the two central cities with the authority to serve suburbs by contract.

"Ten years later the legislature took further action to bring Minneapolis and St. Paul together. This time for the purpose of airport development and operation. A 1943 act, like its predecessor caste in the far away language of general legislation with local application, applied to 'two contiguous cities of the first class'. The law established a public corporation to develop and operate airports for the Twin City area."⁷ "Both Minneapolis and St. Paul had eagerly sought a major airport facility. Each having built competing airports just prior to World War II. The legislature recognized that there was opportunity then for only one major facility and it enacted legislation establishing the Metropolitan Airport Commission."⁸

In 1940, when discussions of MAC were begun, the population had grown to about 1 million with 79% in the two central cities, and three more local governments were added to the list. Its representation was similar to MSSD--two from each central city plus a chairman from outside the region. The MAC jurisdiction extended in a 25 mile radius from the courthouse of each center city; this is somewhat less than the seven-county region, but substantially beyond the two-city area of its representatives.

By 1950 the post-war boom was underway. Municipalities were growing apace. Suburbanization was occurring to meet pent up housing demands. As this led to

requests for funding to provide services, the legislature responded with special tax programs for incorporated places, such as liquor and cigarette taxes. These taxes in turn led to an even greater battle to incorporate which was multiplied by defensive incorporations. Fourteen more local governments, mostly suburban, were added between 1940 and 1950. The population reached 1.2 million with only 69% of them in the two central cities. The growing need was to assist this rapidly growing array of relatively small local governments to solve problems that transcended their local political boundaries.

Minneapolis could have considered annexation. At that time, however, it was a city with services in, net debt under 4% of assessed valuation (a reduction from 9% in 1942) and a triple A municipal bond rating.⁹ It was obviously contented.

As the suburbs spread out across the countryside, the third district began to take shape. "Utilizing a 1947 law which enabled local communities and counties to expend monies to control tent caterpillars, and armed with the Attorney General opinion that under the tent caterpillar statute and the Joint Powers Act counties could contract with each other to provide a joint program, the six metropolitan area counties currently a part of the mosquito control program established the current district in the fall of 1957 to be effective as of January 1, 1958. The tent caterpillar law contained a 50¢ per capita limitation which carried over to the mosquito district and was then embodied in the special law passed for the district during the 1959 legislative session."¹⁰ The district is governed by a board of two commissioners from each county. This continued the pattern of equal votes by government unit but extended it beyond the central city.

At the same time the region was working to solve the mosquito problem, it was attempting to build a broader response harkening back to the proposed Metropolitan District Planning Commission in 1928.

"On March 23, 1953 the League of Minnesota Municipalities sponsored a Twin Cities area regional planning conference. This conference, held at the University of Minnesota, attracted over 100 governmental officials and interested private citizens. About half of the participants represented suburban communities. It was the sense of the conference that the League continue its interest in areawide planning. A 'trial balloon' bill introduced late in the 1953 session of the legislature, without serious expectation of passage, served nevertheless to declare the intention of the friends of metropolitan planning."¹¹

Clarence C. Ludwig was a professor of political science at the University. He also directed the University's Municipal Reference Bureau, and served as executive secretary of the League of Minnesota Municipalities at this time. He appointed an advisory committee of officials and citizens representing both central cities and suburbs, to discuss what other areas were doing to mitigate their metropolitan problems, and to prepare a proposal for submission to the 1955 session of the legislature. He also sent a Municipal Reference Bureau research fellow on a field trip to eight metropolitan centers. The report from this trip aided the discussion.

The League's legislative conference of municipal officials endorsed these activities in 1954. They recognized the need for the legislature to authorize a metropolitan planning agency. "On the eve of the 1955 legislative session, the LMM met again in conference to discuss draft legislation to plan efforts to push its bills in the legislature and to gain public support. Some sixty people from state and local government and central cities and suburbs attended the December, 1954 conference and supported the League's efforts."¹² Newspapers provided favorable response at this time to the Metropolitan Planning Commission. Ludwig and C. David Loeks, Planning Director for St. Paul as well as Chairman of the LMM Planning Committee, actively lobbied for the metropolitan approach to resolving the area's environmental problems. Elmer Andersen a Senator from the Conservative caucus and later governor, sponsored the LMM's bill in the Senate. It received favorable action there, but was not voted upon in the House of Representatives. Opposition arose from the central cities, particularly Minneapolis, which believed it would be required to pay a disproportionate share of the costs of the Commission. Efforts to reach a compromise failed.

The LMM's legislative conference again met in June, 1956 to reaffirm its support for metropolitan planning. A number of conferences followed, including one in September, 1956 promoted by Governor Freeman, a Democrat, who joined his friend Clarence Ludwig and the LMM in sponsoring a gathering on Community Development and Planning. He gave his full backing to the Metropolitan Planning Commission. A final LMM conference was held in December, 1956 in anticipation of pending 1957 session legislation. Senator Andersen again sponsored and pushed the legislation through the Senate in the 1957 session. This time the proposal quickly moved through the House as well without a single negative vote.

The Twin Cities Metropolitan Planning Commission (MPC) was established on April 17, 1957. It was composed of 23 members representing units of government and seven representing the public at large." An organizational structure resembling today's Councils of Government in most metropolitan areas, the Commission was directed to study metropolitan problems and report to the legislature. It possessed no authority."¹³ This was the first metropolitan agency to reflect all governmental units in the region--municipalities, counties, towns, and special districts.

"The legislation called for the MPC to make plans for the physical, social and economic development of the metropolitan area with the general purpose of guiding and accomplishing coordinated and harmonious development of the area."¹⁴ Further, it was to promote the cooperation of the planning commissions of governmental units within its metropolitan area, and the coordination of the plans of such units with each other and with plans adopted by the Commission.

Its responsibilities were to be exercised within a five county area initially. By April, 1959 that had been extended to include Carver and Scott Counties, creating a metropolitan planning area of almost 3,000 square miles, the same amount that exists presently under the Metropolitan Council of which over 500 square miles were urban or urbanizing. To finance its

activities the MPC possessed the power to levy a .10 mill rate on real property in addition to accepting gifts and grants from private and public entities, including the federal government.¹⁵ This tax authority was to be a significant element in the evolution of the MPC and the structuring of the Metropolitan Council. Also in 1957 the Minnesota Legislature established a special commission on Municipal Annexation and Consolidation to study the many problems arising from recent incorporation and the state laws concerning incorporation, annexation and consolidation, recommending changes for more orderly growth of the area.¹⁶ The Commission recommended, and the 1959 legislative session created, the Minnesota Municipal Commission a 3-person quasi-judicial state agency with authority to rule on all local government boundary changes.¹⁷

"Prior to the establishment of the Minnesota Municipal Commission Minnesota laws on annexation, incorporation and consolidation and other municipal boundary changes were inadequate and ineffectual. Some villages were incorporated for the single purpose of providing a liquor license to the sponsors of the incorporation, others to pre-empt the tax base created by the establishment of new industry, and others to avoid annexation by an adjacent municipality. This procedure often resulted in village boundaries which were not related to governmental services, gerrymandered municipal boundaries which created islands of unincorporated territory surrounded by an incorporated village. Municipalities or townships consisting of a large number of separate and detached parts and small villages completely surrounded by large municipalities.

"While incorporation was a relatively simple process, annexation was extremely complex. In spite of the 80 or so different statutory provisions relating to annexation, in some instances it was virtually impossible to accomplish an annexation even where everyone involved was in favor of it. At a net result, there are now more than 130 individual cities and villages within the seven county, metropolitan area, and more than one-fourth of them have less than 500 inhabitants. This situation was greatly improved by the passage of the Minnesota Municipal Commission Act in 1959. Since that time all incorporation and most annexation and other boundary changes within the metropolitan area have been reviewed by an impartial administrative agency on the basis of the guidelines stated in the statutes."¹⁸

The creation of these two agencies reflected a consensus that the era of unlimited governmental fragmentation had created problems requiring state and metropolitan comprehensive assistance. Both planning and administration of development during this era had comprehensive and functional components. The weakness was that the comprehensive or integrative action, such as it was, was carried out in the geographically small provinces of local government, while metropolitan-wide issues were addressed only in special-purpose metropolitan agencies such as a sanitary district and airport commission or in functional state agencies, particularly the state highway department.

The Consensus on Metropolitan Governance

The mid-50's to 1961; crises and debate. The League of Municipalities had studied what other metropolitan areas were doing to solve their problems in 1954 as part of the background legislation for the MPC. Using this and other material the Citizens League addressed its fourth annual meeting in 1955 to the topic of metropolitan intergovernmental cooperation. The Citizens League is a citizen group of over 3500 individual and firm members engaging in studies of governmental finance, planning and organization. The theme of the annual meeting was "Minneatropolis."¹⁹ Shortly thereafter Mayor Eric Hoyer of Minneapolis proposed a combined metropolitan area government, triggering instant opposition in the suburbs.²⁰ In 1957 Judge Lindsay Arthur proposed a metropolitan federation to address water, sewer, roads, courts and welfare. The "units" of the federation were to be created through consolidation of some of the smaller local governments and breaking up of the larger ones.²¹

As the census was counted in 1960, population had reached 1½ million with the central cities proportion reduced to 50 percent. Suburban governments during the 1950's increased in number by 27. As the arguments went, the newly created Minnesota Municipal Commission could halt further fragmentation, but it could not reverse the current situation.

That fragmentation had made it exceedingly difficult for the existing sanitary district to extend its facilities via contracts to third tier suburbs. (See Waterborne residuals for further details). The first installment on uncontrolled sprawl came due. In September 1959 the Minnesota Department of Health reported that 47.5 per cent of the wells studied in the Metropolitan area show evidence of contamination and 10.8 per cent contain a level of contamination considered harmful to the health of infants.²² Also the Minneapolis Saint Paul Sanitary District in 1959 failed to meet water quality standards for the first time²³ as a result of the State Health findings. The Federal Housing Administration in early 1960 required housing to be connected to a central water system. This produced mixed reactions with some local governments claiming it was a big scare to force water systems on them.²⁴

In April of 1960, Joseph Robbie officially proposed to the Commission on Municipal Laws, which he served as executive secretary, that it recommend a single multipurpose agency to handle the water and sewer problems of the Metropolitan area.²⁵ Robbie meant the proposal as an alternative to Metropolitan government. It had a hostile reception.²⁶ Robbie, as Executive Secretary of the Commission on Annexation and Consolidation, had been the chief architect of the Minnesota Municipal Commission and then its first chairman. He also was an original member of the Metropolitan Planning Commission and served on its Water and Sewer Committee in 1959 and 1960 at the time its reports on these matters were prepared.

The MPC report on Water in July 1960 rather timidly advocated creation of a Metropolitan agency to study the issue more fully, to lay out a plan of action and to recommend an organizational structure. A month later, the MPC issued its Sewerage study which was more specific in two ways: it recommended treating the water and sewage issue together as related aspects of water resources, and it identified two organizational options,

a single purpose district and a multi-purpose district. The text treated the two almost equally but a set of five criteria implicitly favored the multi-purpose solution.²⁷

In September 1960 the Minneapolis Saint Paul Sanitary District released the report of a five-year study of the Metropolitan Sewer problem and called for an expanded service area.²⁸ Although no organizational structure was expressly identified, it was well understood that continuation of the single purpose district was intended.

The problem was tying water and sewer services together and deciding whether or not they should be incorporated into an expanded MSSD. The Commission on Municipal Laws concluded that it propose to the 1961 legislature establishment of a metropolitan sanitary district only and further study the state-wide and metropolitan resources policy. Their CML also considered creation of a governmental mechanism that could assume a variety of metropolitan functions such as transit and air pollution control where the area's government and legislature agreed.²⁹

1961-1965: years of study, frustration, failure. The year 1961 was one of significant decisions that influenced subsequent events. The sewer issues was presented to the legislature and passed the House but failed in the Senate. The Metropolitan Communities were split in a number of ways -- central cities and suburbs, suburbs with access to rivers and land-locked suburbs -- that made agreement difficult. But the problem of the north suburbs where the worst well pollution was found required attention so the legislature created the North Suburban Sanitary Sewer District. Thus began the further pressure for sub-metropolitan solutions to the sewer problem.

In the fall of 1961, Governor Elmer L. Andersen (who as a state senator had authored the MPC legislation) called the first governor's conference on metropolitan problems. One of the main concerns was water supply and sewage.³⁰ In December the governor named a Metropolitan Area Coordinating Committee chaired by Clayton LaFevere. LeFevere, an attorney, was president of the League of Minnesota Municipalities, later to become a member of the Metropolitan Planning Commission and Metropolitan Council. He was to be instrumental in key legal actions and legislation for the next decade. Although this Committee failed to function as a full group, it did continue as a small task force to draft a sewer bill for presentation to the 1963 legislature on which it held hearings in 1962.

The MPC also faced a crucial decision. The Commission began a program of work in 1958 to inventory the region carefully before making proposals for action. The slow and careful process was based on three premises -- the belief of the staff director that it was the only reasonable way to proceed to plan, the need to create an understanding of the area as a single metropolitan area, and a concern not to antagonize the local governments. This methodical process was to reap later benefits as the region, state and federal agencies recognized the soundness of the research work and began to rely on it.³¹

Many, including some key legislators, saw the Commissions work as unresponsive to the current metropolitan political agenda, and saw its recommendations as timid at best. This was brought into sharp relief in 1962 when the chairman, F. Robert Edman, resigned that position with praise for the work that had been done but a challenge to refocus on the issues of the day. It should be noted that some members were uneasy with Edman's dual capacity at that time as chairman of MPC and executive secretary of the Minnesota Municipal Commission.

During this period the Minnesota Highway Department (MHD) was engaged in a major transportation study for the region. The MPC coordinated its activity with the MHD but did not actively participate because its budget was limited and it was just getting its feet on the ground. In 1961 a tentative plan proposal emerged (System 5) that showed ten freeways radiating out of downtown Minneapolis. This raised the hackles of many who felt the previously programmed Interstate routes were tearing the city apart.

At the same time, the federal government became concerned about the overlapping activity of state highway departments funded by the Bureau of Public Roads (now Federal Highway Administration) and the metropolitan planning agencies funded by the Housing and Home Finance Agency (now U.S. Department of Housing and Urban Development). The two federal agencies approached the agency in the summer of 1961 asking MPC and the MHD to undertake a pilot joint effort. The staff was torn by the need to focus on pressing local issues and the need to obtain greater funding to complete a metropolitan plan.

The program, later agreed to, was executed by 13 city, county and state agencies coordinated by the MPC.³² The proposal was to look at alternative patterns of development and alternative roles for transit as a means to reduce the number of freeways required. But there was a quid pro quo that came back to plague the program in later years. The MHD study plan was to be withheld from publication and to be superseded by the new Joint Program plan. In exchange the agencies agreed to use research techniques of equal or greater sophistication to the previous study. This meant a heavy commitment to computerized mathematical models, a commitment that caused the program to extend two years beyond its scheduled duration even though no new techniques were employed.

However, there was one positive benefit. "The Joint Program dealt not so much in specific proposals about what, that is what roads or transit lines or commercial centers or parks were to be built, as in proposals for the way in which decisions were to be made about the location of these major facilities. The thrust of the effort was to understand the process of development and to bring the key elements of the process under public control. This was part of a conscious decision to concentrate on implementation rather than newer and more sophisticated research techniques."³³

This approach was to aid concurrence on the major functions to be performed by the Metropolitan Council. The study also pursued a process of citizen and local official involvement that was to aid later decisions. The work began with a survey of attitudes of local residents about problems, solutions, governmental

roles, and types of development favored. This was followed by constructing a trend forecast ("Present Trends") and three theoretical alternatives to it -- spread city, Radial Corridors, and Multiple Centers. Each scheme represented the consequence of pursuing different sets of values about housing, shopping, transportation, recreation and other variables. None were deemed balanced or reasonable as choices, but as illustrations of emphasizing various values so better choices could be made.³⁴

The process of choosing began in the fall of 1965 and spring of 1966 when a Citizens Advisory Committee and an Elected Officials Review Committee met once a month for six months to review and debate the issues. The EORC encompassed one elected official from each of the over 300 governments in the region. The topics of the conferences included: total development, housing, commerce-industry, open space, utilities, transportation, and government-taxation.

Examples of the issues from utilities are: (1) should sewer and water systems be used to encourage or discourage growth in specific areas in accordance with metropolitan development objectives, or should they be used only to serve development where it occurs?; and (2) should sewage disposal and sewage plant location be based on least cost or on the best use of rivers or other surface water resources? While the questions may appear stacked and the answers obvious today, they were not so at that time. The discussion of the choices showed what would happen with either choice and inferred which communities would gain or lose from each choice.

The government paper covered four alternatives--an inter-county council, a municipal-level federation, a multi-purpose district, and single-purpose districts. Arguments for and against each were made.

The taxation paper was the first step toward fiscal disparities legislation. It showed that all schemes resulted in "have" and "have-not" communities. This discussion was to be carried forward until enacted in slightly different form in 1971.

Following the last session, a packet of papers was presented to each committee member together with another survey.³⁵ Responses were used to formulate the recommended plan in 1967.

The development strategy concurred in was to control a limited number of major items at the metropolitan level and to leave all others to local government. Those limited items were: (1) the two major points of development attraction, major commercial centers or regional diversified centers, and major natural amenities or lakes, rivers, bluffs and similar areas; and (2) the major support systems serving development -- highways, transit, and sewers. This control was to occur within an urbanized area in which housing was to be on no greater than 1/3 acre lots, the average then being subdivided. Low density development was to be allowed in delineated areas with a 3 acre lot minimum, the size generally deemed safe for septic tank use based on percolation tests, or such larger lot as tests may require.³⁶

The sewers were relied on heavily because of the concern for regional handling of these facilities at that time and because commencing January 1, 1965 The Federal Housing Administration would not accept subdivision proposals for tract developments unless they could be served by central water and sewer facilities.³⁷ The FHA was subsequently to abandon that policy leading to sprawl once again and a response by the Metropolitan Council.

Returning to the year 1962, the activity continued on the sewer front with MSSD expansion of its treatment plant and issuance of state standards for the Mississippi. The League of Women Voters created a Council of Metropolitan Area Leagues to better deal with metropolitan issues.

In 1963, action at the legislature was still a holding action. Two sewer bills were passed, one for a new study and the other to make the existing contract system work better by strengthening the Water Pollution Control Commission. This year also saw creation of a Metropolitan and Urban Affairs Committee in the House of Representatives. The Citizens League began to study a series of metropolitan issues including sewage, solid waste disposal, transit, annexation, incorporation and comprehensive planning.³⁸

The year 1964 saw a significant rise in Metropolitan proposals and a decision making failure by the MPC. In April the Mayor of Minneapolis, Arthur Naftalin and George Vavoulis of Saint Paul proposed a multi-city mechanism with state authority. Mayor Kenneth Wolfe of suburban Saint Louis Park proposed an open-ended seven county metropolitan federation. In July, Milton Honsey, Mayor of New Hope and President of the Hennepin County League of Municipalities and Vernon Bergstrom, executive director of the League, went to Toronto to study that metropolitan government. The report they filed after their return was widely distributed and discussed. The League of Municipalities reactivated its Metropolitan Affairs Committee.³⁹

The Metropolitan Planning Commission was confronted in 1964 with a major challenge when the areas major electric power utility announced its intention to build a 500,000 kilowatt plant with an 800-foot smokestack on the Saint Croix River, a prized recreational valley now part of the National Scenic River System.⁴⁰ The MPC act had been drafted with a provision for mandatory referral of "any matter which is not predominantly local but has a substantial effect on regional development..." To obtain passage, the authors had to consent to insert a clause between which and is above, reading "in the sole discretion of its governing body." Nothing was ever referred, including the power plant.

Some of the Commission members were determined to enter such issues, however, and managed to pass a set of criteria on November 16, 1964 governing when the Commission could elect to intervene and the procedure to be followed. Using these procedures, they set up a hearing to take testimony from all sides of the issue. The session dragged on through the morning and lunch hour. One by one, a number of the citizen and municipal members had to leave. When the count was right, a county representative moved to close the hearing and call a vote. The vote was taken. It was not to enter with the counties voting as a block.

Two conclusions emerged from the vote. First the great disparity in tax base among local governments forced outlying areas to vote for major tax base even though it meant environmental damage. Second, an organization of local elected officials could not be counted on to vote the metropolitan interest ahead of their individual community interest. Both points were to reappear in later legislative debates. The Planning Commission later regrouped and presented a legislative proposal in 1965 to strike the offending phrase, but it was too late. The damage was done. In June 1964 a group of Twin Cities officials led by Milt Honsey instituted suit in Federal District Court to declare the then current reapportionment un-Constitutional because of population imbalance. In 1963 rural representatives held 42 of 67 Senate seats and 87 of 135 House seats, although the Twin Cities had 45% of the total state population. This was a first of a series of legal and legislative steps by the Honsey group and Governor Levander to force the legislature to produce a valid and satisfactory reapportionment law. Finally in March, 1966 the Governor called a special session of the legislature which passed an acceptable and valid reapportionment law, the first major one in over 50 years. It gave the Twin Cities six additional seats in the Senate and 11 new seats in the House.⁴¹

The 1965 legislative session was very much a replay of previous ones. New sewer bills appeared supported by new plans but they failed to move again as in the past.

1965-1967: The Metropolitan Council is put together. This 1965 session was the first at which the MPC made a legislative report. The Commission was created at the urging of local governments and it was oriented toward them. Some leaders like Verne Johnson of the Citizens League suggested the MPC should provide more support to the League and the legislature on metropolitan issues; some legislators suggested it, too. When the MPC asked to have its levy increased from .10 to .20 mill in 1963, the request was granted for .13 mill and a clause added to the act requiring a report to the legislature on past expenditures. The Commission did that and more. It included a number of items for action by the legislature. While brief and steering clear of strong proposals in sewers and metropolitan government, it did constitute a first turning to serve a second constituency.⁴²

The MPC again requested the .20 mill at the 1965 session. This was granted on a temporary two-year basis with the added requirement that the Commission submit a two-year program. This was done very briefly in the report to the 1967 session.⁴³

The relation to the legislature established in the Metropolitan Council legislation was a continued evolution of this trend.

In 1962, then-State Senator Donald Fraser suggested establishment of "some type of metropolitan council or 'little legislature'

with power to deal only in matters generally dealt with by metropolitan area municipalities".⁴⁴ This thought was pursued again by Rep. Douglas Head in January 1965 when he proposed a legislatively based Commission for the Urban Area.

In May of 1965 the Citizens League proposed that the 1965 legislature undertake a study of the area's metropolitan and intermunicipal problems and needs and prepare recommendations to the 1967 legislature on their resolution utilizing alternative governmental structures. There was no legislative follow-up but this substantially aided the discussion and emphasis on problems of directing the area's growth.⁴⁵

Also during mid-1965, 58 Twin Cities suburban communities paid for and received special censuses of population. They sought to secure additional revenues from the state which returned certain funds to communities on a per capita basis. The censuses showed the suburban area to be the fastest growing area in the state with an increase of over 32% in five years, that is 1960-1965.⁴⁶

As the pace quickened, Mayor Honsey sharpened his proposal for a federation of municipalities, drawing heavily on his Toronto investigation. It would operate with 6 departments: Planning (the MPC); Public Works (sewer, water, storm sewer, waste disposal, air pollution); Transportation (mass transit, areawide roads, traffic airports); Parks and Recreation (library, zoo, area parks); Assessment (areawide uniform assessment base); and Civil Defense.

In the fall, the MPC began its series on the metropolitan plan and metropolitan governance that continued through April 1966. In January 1966, the MPC called a meeting at which the views of all those making major proposals could be presented and discussed.⁴⁷

The presentations included a wide range of views including a chairman of a county board who argued for the voluntary approach under an inter-county council. A research person for a county association of municipalities urged further study and avoiding a headlong rush into unknown areas.

Two of the speakers who perhaps best reflected the sentiment of the group were Verne Johnson of the Citizens League and Clayton Lefevere. Johnson said "The legislature must do one of two things. By constitutional amendment or some other way it must become the policy and budget agency for all of the various single-purpose special districts. Or it must allow the Metropolitan Area to organize itself either through Mr. Honsey's plan or some other plan. They must either accept the responsibility or give it up. Anything short of one or the other is going to be inadequate in the long run."⁴⁸

This comment reflected a number of points beneath the surface. Minnesota is committed to local government. The state ranked second in the nation in 1967 in number of local governments. The converse of that is true, also. Special districts are suspect because they are less accountable than general local governments. In 1967, Minnesota ranked

35th among 50 states in special purpose districts measured.⁴⁹ The comment also reflected the need to coordinate the spending of the special districts to be able to create a regional budget.

LeFevere had an answer for those who thought it premature to move ahead with so little known of exactly what should be done and why. He said "Whatever structure of government is finally agreed upon--voluntary cooperation, or an organization like the Citizens League... which is made up of experts in certain fields--that structure will be like a vessel into which certain metropolitan or regional problems are poured, one at a time. It will not be possible to decide in advance whether we're going to feed one, two, three or a dozen problems into this organization. Government structure is always a growing and changing thing. However, when this structure is finally agreed upon in this Metropolitan Area, hopefully we will grow with it, gain experience from it, and change with it as the years go by."⁵⁰

This view of a problem-solving agency that would change itself as it did its work is incorporated in the law and is one of its most innovative aspects. In June of 1966 a Metropolitan Affairs Committee to study the area's problem and development recommendations for the 1967 legislature came into being as part of the Citizens League program. Between June and November 1966 it held 24 public meetings at which area leaders and business, labor, government, education, politics, professions, media and community affairs experts in pertinent fields were heard. In February of 1967 the Board of Directors of the Citizen League called for a directly elected, non-home rule, metropolitan agency exercising only those powers and responsibilities specifically granted by the legislature."⁵¹

Other groups active at the same time included the county leagues of municipalities, Jaycees, legislative committees who toured several other metropolitan areas, the political parties, and business leaders.

The Upper Midwest Research and Development Council, (now Upper Midwest Council) is a nonprofit corporation organized in 1959 by a number of business and industrial leaders in the Ninth Federal Reserve District. Its major function is to promote the community welfare and economic growth of that district. In early 1966 they had joined the St. Paul Chamber of Commerce and the Minneapolis Chamber of Commerce together with the suburban chambers to coordinate approaches to matters of mutual interest. As a result of this a 15 member Urban Study and Action Committee was organized. This group later recommended an eight point program in 1966 for consideration by each area chamber, "With close to 3/4 of the area chamber's membership endorsing the proposal for an elected metropolitan multipurpose operating district. Dunne, chairman, organized a group to prepare a draft bill for the legislature. The group included Tom Anding, of UMRDC; Ted Kolderie of the Minneapolis Star; Verne Johnson and James Hetland of the Citizens League; William Frenzel, representative from Golden Valley; Clayton LeFevere and Dunne. The end product was the Frenzel bill for a metropolitan agency for the Twin Cities area. Working at the same time on a separate bill was Senator Harmon Ogdahl, also a member of the Minneapolis Chamber. These two bills were almost identical and were later combined and submitted to the legislature."⁵²

There was a feeling that it was necessary to demonstrate even greater support for a metropolitan approach to the area's problem. The Twin Cities Metropolitan Seminar on Governmental Structure held on November 10, 1966 at St. Thomas College in St. Paul again brought the UMRDC and the Chambers of Commerce together. The seminar was held at the height of the metropolitan discussion and included major business, industrial and labor leaders in the metropolitan area, several of whom subsequently testified on behalf of a metropolitan council before the legislature. Included among those active at the seminar were major corporation heads, presidents of banks and utilities, area public officials, state legislators, community leaders and members of the MPC. This was the first time that the highest echelon of the business community had met with government and community leaders to express their views on resolving the area's problems.⁵³

The Metropolitan Planning Commission saw significant change in the summer and fall of 1966 as new members took their seats in July. Some of the suburban mayors active in proposing metropolitan legislation such as Stan Olsen of Richfield and Milt Honsey were added. Robert W. Johnson, county attorney, and municipal Commission chairman also was added along with several other local officials. The senior staff changed with the resignation of the director. The Commission voted to shift from quarterly to monthly meetings. It began in September, with a newly established legislative committee, to prepare positions on all major metropolitan issues. Perhaps its most significant proposal was for the creation of a metropolitan council that could implement its plan and subsequently its own abolition.

The proposals and the compromises. As the legislative session got underway, there was great consensus on the part of the metropolitan community as to what it wanted in legislation. See Table 1.

In testimony before the 1967 legislature, the metropolitan section of the League of Minnesota Municipalities noted that in the opinion of area officials, "There is a general recognition and acceptance of the need for some type of governmental structure encompassing the seven-county metropolitan area. The purpose of such a unit is to assume responsibility and render services which are not in a historical sense municipal functions and which municipalities, either individually or collectively, are not capable of performing."⁵⁴

Opposition to the wide spread efforts to create a new metropolitan mechanism came from three principal sources.⁵⁵ Bloomington, an intermediate ring suburb and the fourth largest in the state, was one source. It is located adjacent to the International Airport and has ready access to the Minnesota River which enables it to provide adequate sewer service if necessary. It is also at the crossroads of two interstate highways. The city felt that metropolitan reorganization could threaten its favorable economic position for it would have to subsidize development elsewhere.

Another source of opposition came from the Suburban Sun Newspapers. Here there was fear expressed that metropolitan reorganization would be unfavorable to the sentiment of local government, that is, government

would cease to be local in nature. The editor later served as chairman of the Metropolitan Council advisory committee on legislation for a zoo and changed his view of the agency.

A third source, came from county officials. The Metropolitan Intercounty Council, MICC, a voluntary, cooperative body of eight counties, seven metropolitan ones and Wright County formally came into existence in late 1966 on the eve of the 1967 session of the legislature. "Until then counties had shown little or no interest in assuming metropolitan responsibilities, and apparently did so to avoid the creation of a metropolitan government or have the state legislature and federal government step in. It was felt that metropolitan government would impose a new level of government over the counties and possibly deprive them of certain power. As a consequence of these parochial attitudes, the efforts of the MICC had little impact on the legislature. As Robert Janes First MICC chairman put it, "the counties would not fight a Metropolitan Council in the future, but cooperate with it. Hopefully they could share with the Council or implement certain of its administrative functions, such as solid waste disposal and parks and open space. This appears to be one way to insure that the counties will continue their governmental existence."⁵⁶

The Frenzel-Ogdahl bill introduced to reflect local concerns would create an elected, operating agency for the agreed-on functions. As the bill gained support, particularly from influential sectors of the business community, Senator Rosenmeier, the power in the Senate, encouraged some friends to introduce the "state agency" approach.⁵⁷

Typically the two bills were distinguished by three paired criteria: state or local, coordinating or operating, and appointed or elected. The Rosenmeier bill was state/coordinating/appointed while the local bill was local/operating/elected.

What did the various parties see these bills achieving? The local officials who were arguing for the creation essentially perceived establishing an institution to control metropolitan special purpose districts and to deliver needed service not now being provided. Mayor Al Illies of Minnetonka summed it up when he testified "we look on metropolitan government as local government."⁵⁸

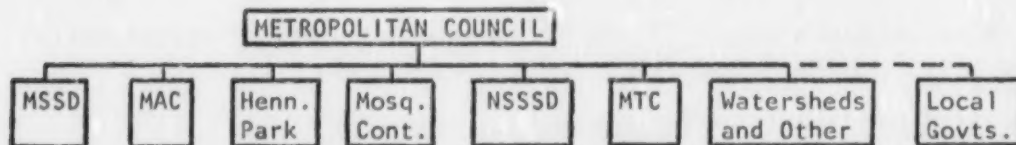
The second constituency, the business community, was more interested in the ability of this regional institution to manage development and thus increase the potential for efficient economic development than it was in the potential for efficient delivery of regional services. The third group, the legislature, perceived this agency as a research arm to assist them on metropolitan problems. The legislature had virtually no staff, and such staff as it had was primarily legal and not skilled in basic research.

The local officials feared service by a state agency every bit as much as conservative legislators feared the creation of a "second legislature" or "Metropolitan Mayor". The bills were deadlocked through most of the session. It was essentially the Rosenmeier bill that emerged with

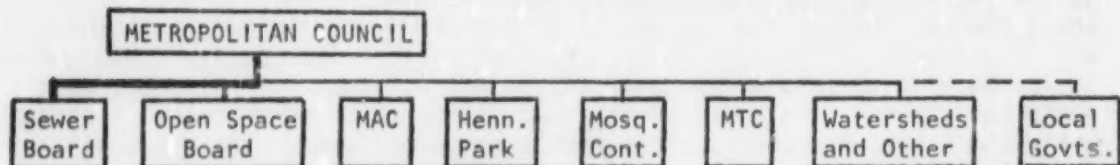
Phase One:
Prior to 1967 Legislature



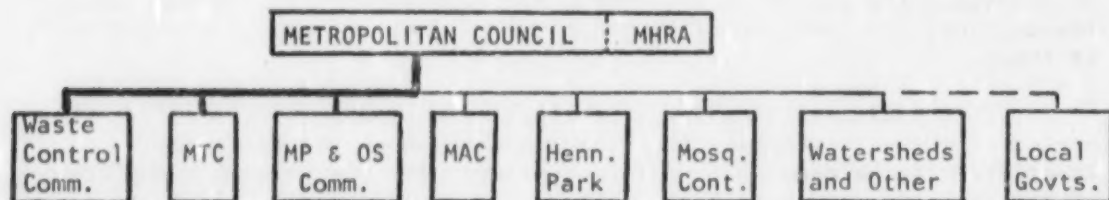
Phase Two: 1967



Phase Three: 1969



Phase Four: 1974



----- Advisory authority only — Authority to stop action
 — Authority to direct action

Figure 1. The Evolution of Metropolitan Government Structure

three changes enroute. The initial proposal was amended to provide the district representation of Frenzel-Ogdahl bill, to remove the Metropolitan Council veto of local government plans that were inconsistent with metropolitan plans, and to finance the Council with the MPC mill levy. This made it clear that the agency was to be metropolitan services oriented not land use oriented, and led to an attorney general's opinion as to whether the agency was state or local. Since a state agency could not tax only a portion of the state, and for other reasons, the attorney general ruled "It is our opinion that the Council is a unique governmental unit standing a step above local governmental units and a step below state agencies and that it is clothed with certain attributes and powers of each."⁵⁹

Also created at the 1967 session was the last single purpose metropolitan district, the Metropolitan Transit Commission.

Metropolitan Government: structure and operation

The explanations of what exists frequently depend on the view of the writer as to what should exist. While there was a strong consensus on the legislation for a metropolitan operating agency, there were many who differed. One of the key points of difference is the extent to which all governments in the region are viewed as part of metropolitan governance. It is the view of this writer and others that all must be included. Some would include only the metropolitan agencies in their description. Others would limit the description of metropolitan governance to the Metropolitan Council itself. Perhaps the most unfortunate finding of the search through records and interviews to construct this history is that many people deeply involved in metropolitan activities have not personally addressed this issue. The result is that there are unnecessary frustrations because expectations are based on differing views of what metropolitan government is today.

This section will attempt to clarify what exists by treating the period of council operation from 1967 to date under the three topics identified at the beginning of this history: (1) the structure and scope of organizational authority to manage, (2) the planning and development strategy employed, and (3) the method of administering development policy or strategies.

The structure. What, basically, was created in 1967? It was an umbrella agency, as shown in Figure 1, with the authority to veto plans or projects of independent metropolitan agencies if they are inconsistent with the Council's "comprehensive guide for the metropolitan area or detrimental to the orderly and economic development of the metropolitan area, or any part thereof."⁶⁰ The agency was advisory to local governments, reviewing their plans and having the authority to hold them for ninety days to mediate disputes with adjacent governments.

In 1969, the Council carried its program for new organizational authority to the legislature and emerged with a virtually intact package. The legislation created a Metropolitan Sewer Board as a subordinate agency

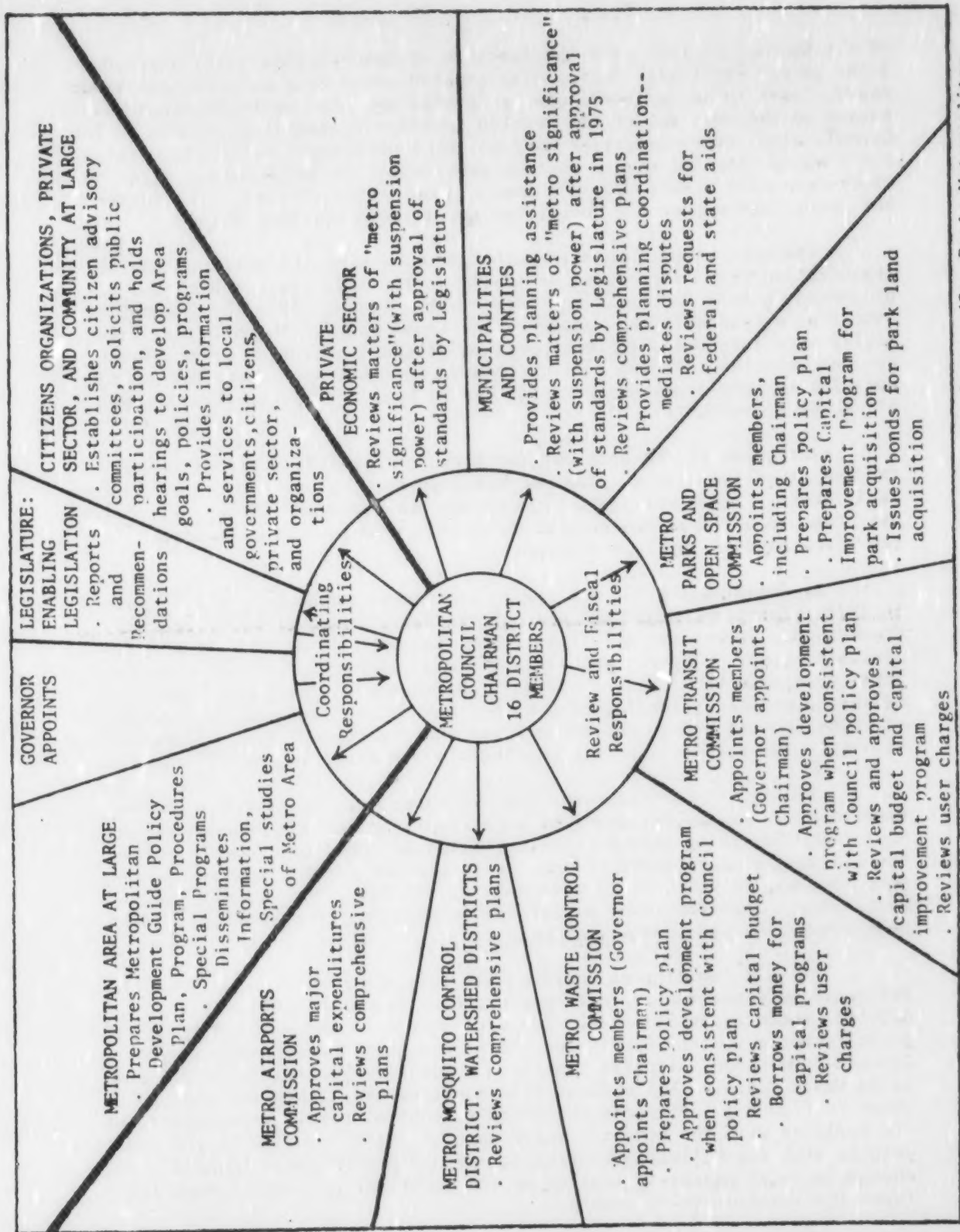


FIGURE 2. Metropolitan Council Relationships.

Source: Newsletter, (St. Paul: Metropolitan Council, May, 1974).

of the Council to take over the function of the existing statutory and joint powers sewer districts. Also created was a metropolitan open space board, later to be declared legally invalid because the legislation was passed on the last day of the session contrary to established rules. The Council also received further environmental management authority to plan solid waste disposal and to control development in noise impact areas or environmentally sensitive areas around a new major airport. The latter has never become operable because no new airport has been built.

The next major change in authority came with the Metropolitan Reorganization Act. Introduced initially in the 1973 legislature, the bill attempted to pull the existing independent agencies under the Council as subordinate boards in the manner of the sewer board. The bill was initially very long owing to incorporation of the legislation of the independent agencies. It was complex because sections were incorporated to pull the metropolitan agencies together without a complete re-write of all existing authority.

Inclusion of the Metropolitan Airports Commission became one of the key stumbling blocks. The MAC has enjoyed substantial support in the legislature. It is well run. It uses no tax revenues. Rather it charges user fees to airlines and general aviation and derives supplementary income from concessions in the airport.

By dropping the MAC and making some other changes, the bill passed in 1974. The act changed the name of the Sewer Board to Waste Control Commission. It brought the Transit Commission in as an additional subordinate agency. The act enabled additional authority to deal with projects deemed to be of "metropolitan significance". The Council was required to prepare guidelines and bring them to the legislature for approval. The Council completed its work but the legislature did not act on it in 1975. The matter is before the legislature again in the 1976 session.

Finally, the act gave the Council three ways of assisting local governments. It has the power of a Metropolitan Housing and Redevelopment Authority to be used at the invitation of local governments. The Council must prepare model ordinances to protect natural resources, and make them available to local governments. Further, the Council was authorized to provide local assistance in planning, programming, development regulation and administration.

The 1975 legislation codified all this material into Chapter 13, Metropolitan Government. That chapter, codified as MSA 473.121 to 473.823, encompasses 95 pages. The section now contains the Metropolitan Council, Waste Control Commission, Parks and Open Space Commission, Transit Commission, Airports Commission, Mosquito Control District, and Solid Waste Disposal. The first four agencies are linked together as shown in Figure 1. Airports and Mosquito Control remain independent but are codified with the others. Solid Waste is still handled by the counties jointly with the Pollution Control Agency and Metropolitan Council. No change in legal status is implied by the codification, but it does reinforce the sense of relationship.

Figure 2 summarizes most of the relationships and indicates most of the authority of the Metropolitan Council. It does not show the authority of the other agencies and governments although it is implied by some of the "review" and "approve" comments. Needless to say, the chart does not fully cover the 95 pages of the metropolitan government law.

The environmental management authority is very diffused in Minnesota as elsewhere. It is discussed more fully in the following sections of this chapter.

The Metropolitan Council as an experiment. There are six ways in which the Council is an experiment: (1) represent people not governments, (2) a study commission in process, (3) relation to general and special governments, (4) separation of policy and operation, (5) role of the chairman and executive director, and (6) role of the plan.

The representation issue is well accepted except for the aspect of appointment vs. election. That issue is raised each legislative session, but never has the vote been as close as it was in 1967 when the council was created. Then it was 33 to 33 in the senate with 34 needed to pass, and 62 favoring election with 66 against in the House.

The Metropolitan Council is a study commission as well as an operating agency. The law requires the Council, in its regular report to the legislature to include among other items "(7) Recommendations... for metropolitan area legislation, including the organization and functions of the Metropolitan Council and the commissions."⁶¹ Thus the agency is anticipated to be altered with time. As the Council acquires more authority, some legislators are taking the agency's views about itself with a few more grains of salt. The view is not as it was in 1969 of a relatively detached agency. In fact some of those who worked on the original legislation would prefer the agency to be more coordinative, have less direct authority, and thus be more useful to the legislature as a detached advisor on metropolitan problems.⁶² The provision was useful in the early years, however, to get the agency moving without having to spell out all the details. LeFevre's description of a growing evolving institution has occurred.⁶³

The relation to general governments was always seen as advisory in the proposals of metropolitan area government, civic and business groups. In the original proposal of Senator Rosenmeier, the need for metropolitan override of local zoning or major development projects was seen. This was scratched fairly early in negotiating an acceptable bill. However, there was a partial need for such override which is now coming back through both state and metropolitan mechanisms.

At the state level, the override is for shorelands, floodplains, power plant siting and areas of critical concern. At the metropolitan level, the Council has indirect control over development generally by involvement in Waste Control Commission approval of local sewer plans. It anticipates favorable action on the "metropolitan significance" guidelines although it is third priority in its legislative program.

The Council is also pursuing legislation for mandatory planning and programming by local governments in the metropolitan area as a further means of control. This, too, is anticipated to pass. The favorable side for the local governments is that it would give them increased control, too. It does mean giving up some local self determination on land development.

The relation to special governments or independent districts and subordinate boards is another matter. As this was the point of last agreement initially, so it still is the most clouded as to true intent and actual relationships. The issue is intimately tied with the next item of experiment--separation of policy and operation--and thus the two are most logically discussed together.

For many of the local officials, the special districts were too lacking in direct accountability. The Minneapolis/St. Paul Sanitary District was governed by the two cities alone even though it serviced over two score suburbs. Attempts to obtain service were often thwarted or ignored. The Metropolitan Airports Commission had few problems until it, too, started developing facilities in suburban communities that were not represented on its board.

But for the legislators, the view was often different. These regional agencies, by and large, provided good service and required no state appropriation, and in the case of MAC no local tax. They were believed to be efficiently run and effective in meeting their legislative mandates.

For the local officials, then, the solution was a multi-purpose elected body with operating departments as advocated by the Metropolitan Planning Commission,⁶⁴ and later the League of Minnesota Municipalities,⁶⁵ or as a minimum the Frenzel bill with subordinate boards. For many legislators, however, a slightly strengthened Metropolitan Planning Commission called the Area Board of Coordination and Development (ABCD) was thought best.⁶⁶ This agency would have had extensive review power, but not enforcement. That would come through reports to the legislature.

The final organization--splitting policy and operation--was undoubtedly selected because it was the first choice of several key and influential people and a compromise between the other two positions. Hetland was one of the advocates of this split. Having observed the Minneapolis School Board become mired in handling contracts while major educational policy for the city went by the board, he was determined to separate these two functions.⁶⁷

Where was the line to be drawn. Representative Frenzel referred to the "three golden threads" that were key for the Metropolitan Council. These were membership, ownership and budget. As it turned out, Senator Rosenmeier insisted that ownership go with the subordinate board to keep the Council out of budgeting detail.⁶⁸

In proposing the Sewer Board legislation along the general lines of the Frenzel model, the staff added programming as a key function of the Council. This was done because it was their experience in dealing with

functional agencies that that was the point where firm decisions were made. The same staff had added the word "program" to the list of words in the draft Rosenmeier bill that included goals, standards, policy statements and maps. Operationally, however, the staff had been unable to produce a workable program component to the MPC Metropolitan Development Guide and later to the early Council revisions.

Programming was a topic whose time never came. In revising the first year's work program in 1968 and preparing the revised development guide format, it was proposed that the program element be revised annually and issued by the Chairman accompanied by a state of the region report. The item was crowded off the calendar in 1969 by the need to produce the functional plans mandated by new legislation. The item was placed in the work program again in 1970 to be completed in preliminary draft in 1970 and final, after community response, in 1971. The document was never produced.

The tide began to run in the spring of 1970 when Hetland, as Chairman of the Council, asked the Sewer Board to prepare a sewer program. It must be remembered that at this time the Metropolitan Council plan for sewers had just been completed. The system plan element was somewhat general (see Figures 5 and 6 in the Waterborne Residuals section) and the program element was almost non-existent because the Sewer Board with the aid of consultants was involved in ascertaining what minimum facilities had to be acquired from existing districts or local governments. The plan was purposefully vague to avoid taking over more than necessary. Only the Sewer Board had access to data to put together a program at this time.

In presentations before the Citizens League committees in 1971 and 1972 concerned with metropolitan capital improvements, key Council members testified to difficulties in dealing with the special districts and Sewer Board on capital programming, but none suggested the Council exercise its authority and initiate the programs.⁶⁹ Thus the key bond that bridged the policy-operation split was never forged.

As a consequence of the Citizen League efforts, the legislature in 1974 wrote criteria into the act specifying what the Council should give the subordinate commissions as a guide to program development, defined a policy plan that the Council should prepare which contained these guidelines, and then transferred the actual program element responsibility to the commissions. It would appear that the result may be to muddy the water further, because now in effect both the Council and the subordinate commissions have the responsibility to program.

The 1974 act also contained a requirement for the Council and its commission to use program budgets no later than 1978. This may be the means of finally getting it all together. The Council is also completing an Investment Framework to complement the Development Framework. If this is treated as a regional capital program with allocations across functions in addition to being a financial plan to avoid the problems of New York City, it too could solve past problems.

The role of the Chairman and Executive Director is also an experiment among Twin Cities metropolitan agencies. The standard pattern is to have a chairman of a special district who is primarily titular and an executive director who runs the show. The Metropolitan Council Act identifies the chairman as one who "shall preside at the meetings and shall act as principal executive officer, he shall organize the work of the Metropolitan Council, appoint all officers and employees thereof...and be responsible for carrying out all policy decisions of the Metropolitan Council".⁷⁰ For the executive director, the law says, "Upon the recommendation of the Chairman, the Metropolitan Council may appoint an executive director to serve at his pleasure as the principal operating administrator for the Metropolitan Council".

James L. Hetland, the first Chairman, served on a part-time basis and delegated many of his duties to his Executive Director. Albert Hofstede, the second Chairman, worked full-time at his position but retained a similar relationship. The current, Chairman, John Boland, chose not to replace the Executive Director when he resigned last year and has divided the duties among his other directors and himself. He serves full-time.

Some have argued that if the Council is elected, the chairman should function more as a mayor with the executive director as a city manager.⁷¹ It has also been suggested that the subordinate commissions be made advisory to the Council and that the commission administrators report directly to the Council executive director.⁷² This latter choice goes toward the professional dominant model with which many suburban governments are familiar and comfortable, while the current Boland approach is more in the tradition of strong mayor leadership of larger cities.

The main point to be made concerning the organizational structure, is that many are still interpreting the act to reflect the model they wish existed. This causes some conflict and frustration, particularly between the Council and subordinate commissions.

The last item in which the Metropolitan Council is an experiment is the role of the plan. The local officials wanted an elected agency of express powers specified in the legislation, but then with ordinance and taxing authority to exercise its prescribed authority. The conservatives in the legislature who wanted a more limited authority still needed some way for the agency to have effective control. It was agreed that the MPC advisory status was too limited. The key was to tie Council authority to its plan.

The early proposals by the local officials would have folded in the Metropolitan Planning Commission as the planning department of the Council. The resultant effect of the 1967 Act as further amended has been to make planning the central aspect of Metropolitan Council decision making. By law, the plan is the basis for specifying what subordinate commission must do and for vetoing actions of independent agencies.

Planning and development strategy. To set a direction and program, the Metropolitan Council held a weekend seminar in November 1967. At that seminar a concept was presented that was to reappear in later work programs

but never to be fully executed. The physical aspects of the region were to be organized into three clusters: (1) physical development structure--the major transportation, utilities, open space and centers; (2) natural resources--land, water, air; and (3) waste management--solid, liquid, gas.⁷³ The latter two were treated together as environmental management. Waste management in that sense is equivalent to the Howe and White, or EPA use of the term residuals management. At one point in discussing solutions to the sewer problem, it was proposed that all aspects of water--supply, storm drainage, sanitary sewer--be handled by one agency. The counter argument which prevailed was that the trade-offs between water resource and pollution would be hidden.

A second argument still advanced by the Waste Control Commission, is to put all wastes plus water supply together so those that are profitable like sanitary sewers and water can support those that are more marginal such as solid waste or negative as air pollution. Further it was argued that many of the same skills and basic data are needed to handle each type of waste.⁷⁴

It is not clear why the waste management concept did not take hold. One early impediment mentioned further in later sections of this chapter, is that the first proposals for handling air pollution and solid waste occurred simultaneously with that of solving the sanitary sewer problem. The sewage problem had been on the legislators' agendas for four sessions, many Council members felt if they did not solve it there would be no more Council. Therefore, the cleaner and simpler the bill the better. The other topics were treated separately. They are unlikely to be put back together soon. The Waste Control Commission has lobbied for it; the Council has been reluctant.

The concept of "management" and of integrating a number of elements in these three clusters rapidly melted away as the success of the 1969 legislative session spelled out an extensive array of functional plans to prepare. Although the Council approved studies of total development or a more integrative framework for the pieces in adopting the work program, the guide committee was reluctant to take up the topic. They saw the complexity of the topic and no crisis requiring them to act. It should be remembered that the nitrate poisoning episode led to Federal Housing Administration requirements for subdivisions to have central sewer and water available to obtain mortgage guarantees, that took the pressure off leap-frogging temporarily.

At the end of 1971, after more than four years of operation, the Council had not restated a regional development strategy, rather it was continuing to add functional elements to its revised guide, and where the guide had not been developed to rely on the earlier statements of the Joint Program.⁷⁵

Shortly thereafter, however, the Council began to address development strategy again. The Citizens League report Growth Without Sprawl appeared in September 1973 and challenged the Council to abandon the old strategy and shift to a new one of controlling residential development.

The strategy of the MPC as explained earlier, was twofold: (1) to identify the urbanized region and the permanent low density parts of the region, and (2) within the urbanized, to organize transportation and sewers compatible with the desired development of regional, diversified centers and land around major, natural amenities. This meant creating some new tools. The Sewer, Transit and Open Space laws were fashioned; the Highway partly; and the Land Development oriented tools were not taken to legislation. A mathematical model to improve developers' understanding of alternate center site potentials was developed, but no direct land regulation proposal was made.

Further, the strategy depended upon integrated metropolitan capital programming which was never undertaken. Indeed, the fixation on functional plans created problems, not the least of which is the Forest Lake interceptor. The Chairman of the Metropolitan Council was quoted last year as saying the Forest Lake sewer was a mistake. It encourages non-contiguous growth.⁷⁶

Researching that item shows the political difficulty of development strategies. The Metropolitan Sewerage Plan of July 1968 showed the effluent of the Forest Lake plant being taken out of the Rice Creek watershed which connects to the St. Paul water supply system and transferred to the Sunrise River. The January 30, 1969 plan which was the basis for the legislation creating the Sewer Board, called for shifting the effluent out of the Rice Creek watershed and then stated "a number of alternatives are being evaluated". The January 1970 plan, implementing the legislation, showed the Forest Lake interceptor running for miles through the open countryside.⁷⁷ What happened?

The first plan was the best from a public health standpoint, the best from a development standpoint, but it put the effluent into a tributary of the St. Croix River that is a trout stream. With the degree of treatment proposed and the limited amount of sewage there should have been no problem. But the Pollution Control Agency had to hold a public hearing on the Council plan. The fishermen pushed their panic button and produced a standing-room-only crowd. The PCA was hesitant to buck the citizens. The Metropolitan Council would not allow the sewage to continue into St. Paul's water supply, and they had a firm policy to get treatment plants off lakes. The interceptor was a compromise position.⁷⁸

Perhaps the Council should have played with the issue, stirred up St. Paul residents against the fishermen, or left the effluent where it was, but the legislature was holding committee meetings on the sewer bill and decisions had to be made. Using the Howe and White approach the interceptor likely would not have been a last choice because that procedure does not take development management strategies into account. Even if the Sunrise came out as first choice in technical evaluation, however, it came out last in the political weighing.

The original development management strategy failed, not because the theory was wrong, but because no one wanted to make the hard choices and do regional capital programming. The current approach shifts the

emphasis from programming to the areas of land to be urbanized or provided urban services and the areas in which some or all non-agricultural use is to be prevented. Thus it creates areas of policy on urbanization as a check for programming by subordinate commission and independent agencies, development plans of local governments, and development projects of private firms or public agencies.

The just completed Development Framework strategy integrates policy for seven areas: urban--(1) metropolitan centers, the two major central business districts, (2) fully developed area, (3) area of planned urbanization, and (4) free-standing growth centers; rural--(5) commercial agriculture, (6) general rural use, and (7) rural centers. The strategy is one of containment of residential development within the urbanized zones and restricting urban services to those areas. This is a very great simplification of a complex strategy. Figure 3 does not show all these areas; no present map does.

Coming along in support of the above is an Investment Framework to provide a basis for overall spending levels for regional facilities as a percent of local spending. While the earlier Planning Commission strategies to organize development within the urban service area have been dropped, the anticipated requirement for local compatible comprehensive plans offers an opportunity for it to be reinstated.

The process shown in Figure 4 explains how the Council anticipates guided development to occur. One point of question and some contention is that the diagram shows interaction with local governments at the program level, but no interaction of local governments of functional agencies in earlier stages. This is not a totally correct statement of what occurred in the stages already completed. There was limited interaction by functional agencies and substantial input through hearings and meetings with local governments. It is envisioned that the process of local planning will provide future input.

Method of Administration. It is not enough just to have a plan. There must also be an agreed upon development management process and both these will not suffice if there is no commitment to administer the process.

The process of policy making by the Metropolitan Council has always been one of initiative. The ideas are thrown out and lobbied. Leadership is used.

But the process of policy administration always has been reactive. The policies are set forth and then the Council responds to others as they bring in their proposals. In the early years this was relatively informal. With the great increase in federal categorical programs subject to A-95 review, the response mechanism has blossomed. The most recent example is a 22-page set of procedures for handling items related to the revised Waste Management (Sanitary Sewage) Policy Plan.

PLANNING AREAS

- A - Metropolitan Centers
- B - Fully Developed Area
- C - Area of Planned Urbanization
- D - Freestanding Growth Centers
- E - Rural Service Area

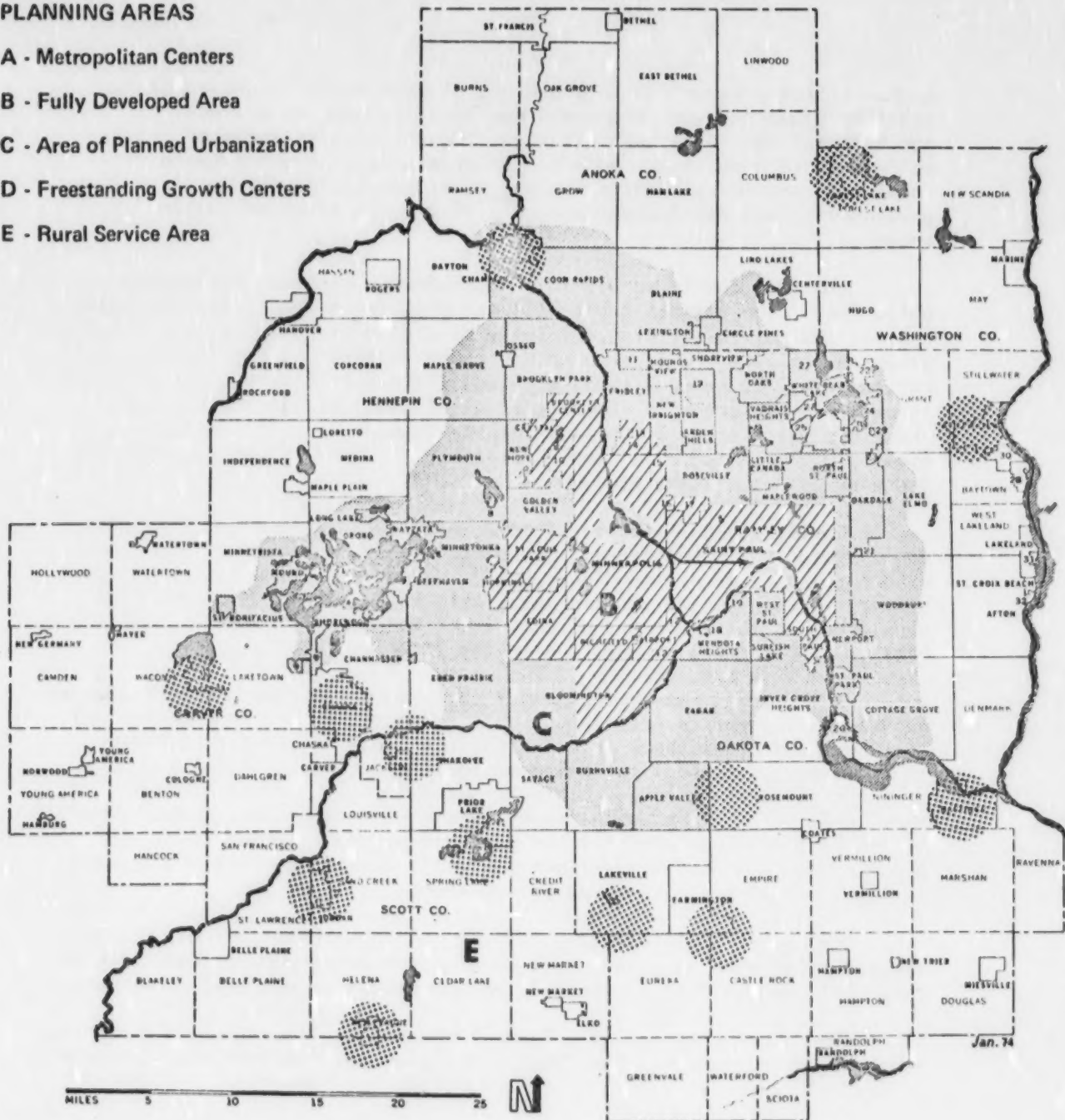
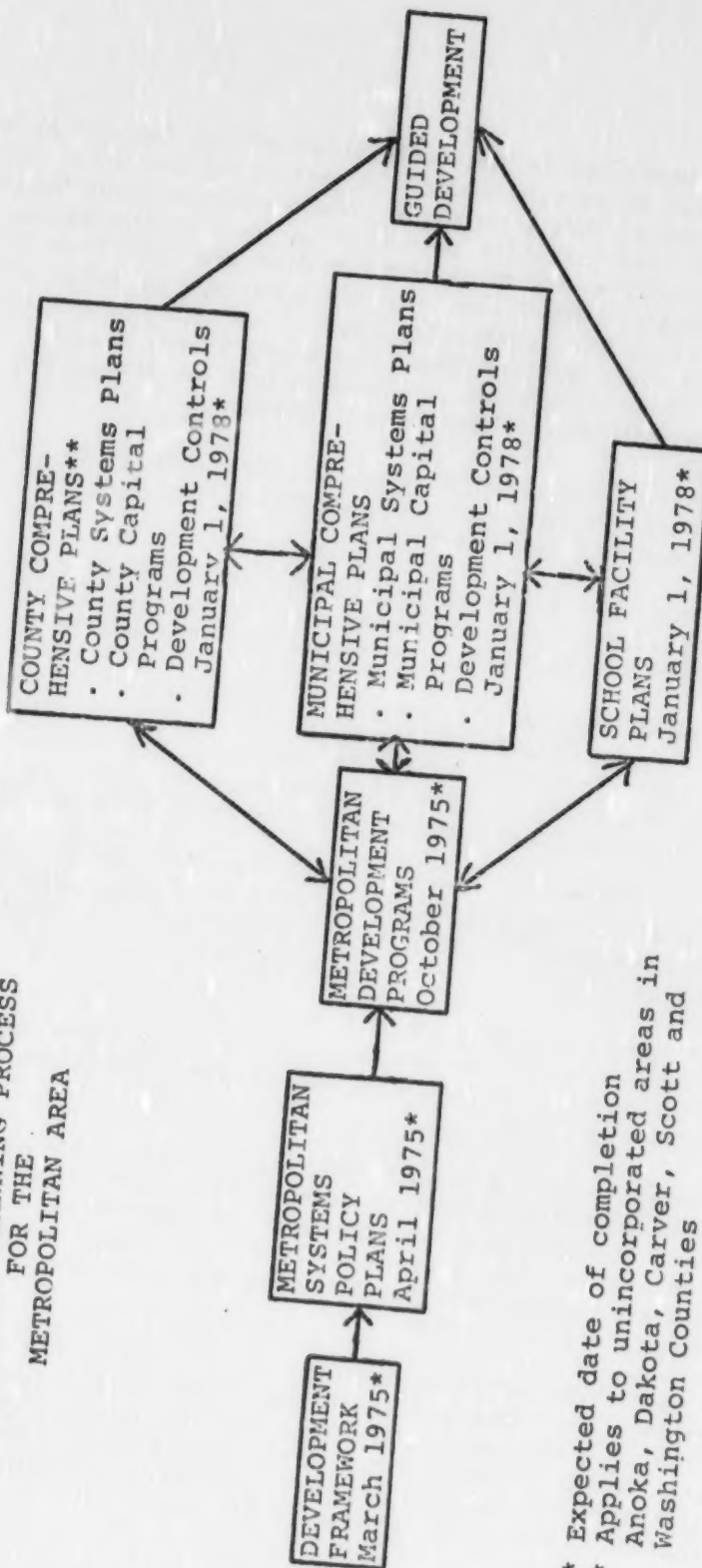


Figure 3.

Source: Metropolitan Council, "Proposed Development Framework Chapter" in Metropolitan Development Guide, (St. Paul: Metropolitan Council, November 1974), p.20.

DEVELOPMENT PLANNING PROCESS
FOR THE
METROPOLITAN AREA



* Expected date of completion
** Applies to unincorporated areas in
Anoka, Dakota, Carver, Scott and
Washington Counties

Figure 4.

Source: Metropolitan Council, "Development Framework, Policy, Plan, Program" in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1975), p.15.

Another option identified in the early years of the Council by management consulting firm, was to pattern Council organization analagous to industry.⁷⁹ It was proposed that a multiple, top executive group be created to consist of the chief administrative personnel of each of the agency boards and the special purpose districts working with the executive director of the Council. Further, there was proposed a concept of bonds and barriers as it pertained to the staff relations. A barrier was proposed between the staffs to prevent wasting Sewer Board staff, for example, on other agencies' work. Then a bond was proposed to provide the possibility of true teamwork and coordination. The report stated:

"The primary goal of Metropolitan Council operations is to build and maintain agency boards which are vigorous, innovative, dedicated and responsive to the metropolitan area served.

"It is recognized that the strength and purpose of the Metropolitan Council rests on the performance of its agency boards, enhanced by cooperation between themselves and guided by the leadership of the Council.

"The agency boards receive the benefit of the Metropolitan Council's experience, but other agencies and the Metropolitan Council fulfill its responsibility to assist the agency boards in obtaining their objectives without impairing the authority of agency boards over the exercise of their responsibilities with its attendant accountability which remains with the agency board."

The Council practice has been more one of duplicating staff for purpose of "check and balance".⁸⁰ This is perceived by the subordinate commission as a lack of trust.

The response mode has been used with local governments as well. Although work was started under various program titles of "area development", and "coordination of planning, programming and project development", it never proceeded to completion.

The issue seems to be whether all the metropolitan agencies see themselves as a team with the Council as team captain, the Stanton proposal, or as a group of individual agencies with various check and balance relationships to each other, the current pattern. In interviews, two of the agencies expressed a preference for the team approach; the Metropolitan Council apparently prefers the latter.⁸¹

As can be seen from the foregoing discussion, and as the following sections will amplify, the Metropolitan Council and related agencies are a logical evolution of governance in the Twin Cities metropolitan area. That does not make the achievement any the less remarkable. Further, the evolution is continuing. No session of the legislature has passed since the Council's creation without some change in its authority or relationship to other agencies.

The planning and development strategy likewise has evolved as a reflection of how far the residents are willing to go in solving metropolitan problems by imposing on themselves additional restraints. The

strategy has focussed on public investment and land for development. The orientation to environment has waxed and waned and may wax again.

The element which has changed very little is the process of administering policy once set. That process continues to be rather decentralized, low profile and a response to initiatives by others.

Footnotes

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WATERBORNE RESIDUALS

Minnesota is a state of lakes and its major metropolitan area is a representative part of that physical setting with over 700 lakes and three major rivers, the Mississippi, Minnesota and St. Croix within its seven-county area. Since the metropolitan area is near the headwaters of these rivers with no other major urban centers upstream, the water is of relatively high quality and the streams are relatively small. Therefore their capacities to absorb pollutants are more limited than farther down stream and the addition of pollutants is more readily seen. The lakes, too, are often quite pure. In the norther part of the state in the Boundary Waters Canoe Area, a national wilderness area, it is possible to dip a cup directly in the lake for a drink while paddling on a hot day. This setting may lead to a heightened sensitivity to water quality. Further, much of the metropolitan area, particularly to the north in the Anoka sand plain, has a high water table in very permeable soils. Thus the ground water is highly susceptible to pollution.

For all these reasons, strategies in the Twin Cities tend to integrate water resource and water pollution. Further, the solutions to pollution, particularly the sewer systems, are integrated with development management as a means of guiding, controlling and directing where development occurs. It is difficult then to pursue a parallel analysis to the Howe and White or Bower and Basta models that focus on residuals management, because these three management systems--residuals, resource, and development--tend to be quite intertwined in the Twin Cities. To the extent possible, however, this paper will pursue the residuals management description and bring in the other points where they are important to an understanding of how choices were made.

Water pollution has received the greatest attention of all residuals problems. It has been the most important in the politics of the metropolitan area. It is, therefore, the most lengthy and complex to explain. To give a little more frame and structure to the discussion it will be divided into three phases. In the first phase the prime concern was a method of getting rid of water-borne wastes and later to reduce polluting the surface streams and rivers. The second phase begins when the extension of interceptors began to bog down institutionally owing to the post-War sprawl of suburban development and the accompanying fragmentation of local government. This led to institutional strategies and strategies to preserve the quality of ground water which was relied on for drinking water purposes. The third phase encompasses the federal water pollution acts of 1965 and 1972 with their higher standards and increasing emphasis on water quality in the major rivers which has returned attention to where it began.

Phase I: Late 1800's Up to World War II--concern with river pollution.

St. Paul began building a sewerage system in 1873 and Minneapolis in 1881 for purposes of collecting sewage and dumping it raw into the

Mississippi River. They continued this practice until the first sewage treatment plant was placed in operation in June 1938.

Obviously this practice of uncontrolled and untreated discharge resulted in limiting uses of the river for cities downstream because of extensive pollution. Finally in 1923, after having heard complaints for several years, the State Board of Health wrote to the city councils of Minneapolis and St. Paul asking that the matter of sewage disposal be given consideration. When no action was taken by 1925 the Board of Health communicated again with the city councils.

Partly as a result of these communications and partly because of growing interest among the civic organizations, the 1925 Minnesota and Wisconsin legislatures created a joint interim committee to explore ways and means of improving conditions of the Mississippi. The interim committee asked the U.S. Public Health Service to make a study of pollution of the river from Minneapolis to Winona, more than one-hundred miles downstream. The study was carried out in 1926 and 1927 and the committee reported to the 1927 Minnesota legislature asking for action to alleviate the situation.¹

The 1927 session of the state legislature created the Metropolitan Drainage Commission to investigate and recommend alternative solutions for the abatement of this pollution. By 1920 the total outflow capacity of all outlets in the Twin Cities area was $2\frac{1}{2}$ times the average flow of the Mississippi River. The Drainage Commission studied some 40 alternative projects, selecting as most desirable a system of intercepting sewers terminating in a single treatment plant for both cities located down river from the center of population.²

It took two sessions of the Minnesota legislature to establish the Minneapolis/St. Paul Sanitary District (MSSD) in 1933. Financing was a major factor. This was exacerbated by the fact that South St. Paul with its packing plants was included. While South St. Paul had a population of only 10,000, its sewage was equivalent to a population of 250,000.³

The initial district was governed by a board of seven trustees with three from each central city and one appointed by the governor. The district designed a plant for primary treatment, removing an estimated 35% of the "pollutional load" of the sewage before dumping the effluent into the Mississippi. The facilities as they were built from 1933 to 1940 were designed to serve an area of 122,000 acres; by the mid-1960's the service area was about 250,000 acres.

The rate of growth was so rapid that the designed boundaries for the system, which were originally thought to be adequate until 1970 were surpassed in the late 1940's. The capacity of the treatment plant which was designed for an average flow of 134 million gallons of sewage per day was reached in 1952.⁴

Much work was done to provide extra capacity in the system by separating storm water and by regular expansions of the treatment plan. But trouble lay ahead.

Phase II: Post World War II Up to the Mid-1960's--concern with ground water pollution.

Clearly, patching up the existing system by reclaiming a little capacity here and there would not meet long term needs. Therefore in May 1956 the Sanitary

District began a \$500,000 study to develop preliminary plans and cost estimates for alternate ways to enlarge the service region. The study was completed in September 1960 a few months before the legislative session. The study area covered over 1,000 square miles and over 100 separate municipalities. Over 200 combinations of projects were considered. These projects were organized by six regions based on such factors as topography, political boundaries, expected direction of population growth, and location and capacity of existing works.⁵ These regions were to reappear with some adjustments throughout the next ten years of debate.

The 200 projects were combined into four alternative metropolitan systems, two based on the single existing central treatment plant, and two which added one or two regional plants on the Minnesota or Mississippi in addition to the central plant.⁶ The single vs. regional plant schema were to be part of the next decade's discussion as well.

The study included no recommendations on organization.

However, a technical plan to provide capacity for new development was not the only need. The dual-headed problem of the post-war years--the rapid spread of development out across the urban fringe, and the rapid creation of scores of small suburban local governments--made the task of extensions of service difficult. Initially the solutions to both could be handled by contracts between the suburbs and two central cities and then in turn through the Minneapolis/St. Paul Sanitary District (MSSD). However, three problems emerged.

The first was the legal difficulty of sub-sub-contracts, or a contract between the central city, an intermediary adjacent suburb, and a second suburb lying beyond. The difficulty also was political, because the money rather than being collected by MSSD directly from each local government, was collected from each participant in turn. For example, Minneapolis contracted with Golden Valley which in turn contracted with New Hope.

The second problem with this contract method was the charging of unjustifiable rates by the central cities. This later became so onerous that legislation, to be discussed later, was passed.

A third problem, related to the first two, is that the central cities were alleged to have difficulty at times finding capacity in the system to serve a suburban community with potential for competing commercial/Industrial development, development that could pose a threat to the tax base of the central city. In this phase, then, the problem was more than a technical one of handling pollution. It was a substantial legal and political problem in system extension.

As a consequence of the difficulty of extending this central system out through ever-increasing tiers of new suburbs using the contract method, the system fell farther and farther behind in serving new growth. More and more suburban land was developed with septic tanks. When this development occurred in soils that could not adequately support individual disposal systems, health problems were not long in coming. The state Department of Health surveys between April 1959 and December 1961 showed

that in 39 suburbs almost half of the private home water wells showed evidence of contamination by sewage. The nitrate poisoning or "blue babies" gathered headlines. As a means of offsetting the problem, a rush program of installing municipal sewer and water to some 300,000 suburbanites was undertaken.⁷ The reason for this program was that even though pollutants would be stopped from entering the ground water with tightly laid sewer lines, it would take some time for the ground water to cleanse itself of the pollutants already present. The only solution seemed to be to extend water.

This pressing need for service brought to the forefront the desirability of moving away from the existing center city-controlled contract system and toward some form of metropolitan system, whether a single integrated system, or a series of regional systems. However, with the pressure to solve local problems, a series of factions developed. The central city and the suburbs differed on rates, but also the distinction in position between those suburban communities that were located on major rivers and those who were landlocked became apparent.⁸

At this point, activity in the region was proceeding simultaneously on three fronts--1) at the MSSD which continued to expand its facilities and design its version of a larger system, 2) in individual municipalities confronted with problems of sewage disposal, and 3) at the legislature. These activities will be followed in turn although they were contemporaneous.

Activity at MSSD. When the Metropolitan Sanitary District bill did not pass in 1961, "the Board of Trustees of the Sanitary District decided to proceed and expand its treatment plant for the area it was then serving--the two central cities and the 24 suburbs." Under existing law, that is all the further the Sanitary District could go. In April 1962 a \$22.8 million expansion of the treatment plant was started.

"It was completed in 1966 and increased sewage treatment from 35% to 75%. It was designed to be adequate for the central cities and the 24 suburbs in the year 1980." However, by the time the facility was put in use in 1966, thirteen more suburbs contracted to be served by the Sanitary District, so the treatment plant, even when expanded would reach capacity before 1980.⁹

Activity at the Municipal Level. An example of the difficulties being experienced is the case of New Hope, a relatively new incorporated village of about 3,300 acres to the west of Minneapolis. It was incorporated in 1953. In 1960 it had a population of about 3,500 and, in the early 1970's, a population of about 20,000. The entire village sits on virtually solid clay soil and is consequently incapable of supporting private home sewage systems or septic tanks. It was essential to provide public service to meet the pressures of rapid growth. In 1956 the village sought to tie in with the MSSD system which required separate contracts with the City of Minneapolis and its neighbor Golden Valley lying between Minneapolis and New Hope. It successfully negotiated a contract with Golden Valley to use the latter's facilities to move sewage to MSSD, but it failed to get service when Minneapolis refused its permission. Minneapolis stated that New Hope's growth rate would not require connection until 1970.

New Hope had exerted repeated appeals. It appealed to the State Board of Health for its intercession and received strong recommendation for either immediate

tie into MSSD or development of a New Hope system and treatment plant which would discharge effluent sewage into local streams, many of which ran through Minneapolis and neighboring communities. In 1956 Minneapolis acceded to the village's request to tie into the MSSD system. This did not, however, resolve the problem over sewage service and new conflicts were generated.

New Hope thought that the rates proposed were excessive. In 1962 its Mayor, Milton Honsey (later to be first chairman of the Metropolitan Sewer Board) with the assistance of attorney Clayton LeFevere (later to become a member of the Metropolitan Council) organized the Suburban Sanitary Sewer Commission with nine other suburbs suffering the same rate exploitation. Black and Veatch was hired to study existing rates and costs. Honsey carried the SSSC case to the legislature and was successful in achieving a clause in the Rosenmeier bill preventing any city selling sewer service from making a profit.¹⁰

The Black and Veatch study concluded that in 1963 there was an average overcharge of 450%.¹¹ This finding appeared in January 1965. When a month had passed with no ability to get a meeting with Minneapolis, the Commission instructed its attorney to investigate the use of an escrow fund in which to place payments until the issue could be resolved.¹² It was in 1966 that adjustments were made.¹³ This coincidentally was also the year in which the MSSD completed its treatment plant expansion that enabled it to expand service from 24 to 37 suburbs.

Activity at the Legislature. In 1957 the legislature established the Metropolitan Planning Commission (MPC) and charged it with making plans for the physical, social and economic development of the region with the general purpose of guiding and accomplishing coordinated development of the area and to promote intergovernmental coordination.

The MPC studies noted the close interrelationship between water supply and sewage disposal as parts of the total problem of water resource management and the need to plan the area's future. Their recommendations closely paralleled the proposal of Joseph Robbie, Executive Secretary of the Commission on Municipal Laws (CML). His report, later known as the Robbie report, became the center of the metropolitan controversy.

The problem was tying water and sewer services together and deciding whether they should be incorporated into an expanded MSSD. There was already an emerging problem of servicing suburban needs through the contract system as noted earlier. The CML concluded that it propose to the 1961 legislature establishment of a solely metropolitan sanitary district and further study the state-wide and metropolitan resources policy. Testimony of the State Department of Conservation, the MPC and the MSSD agreed on the metro-wide solution as did most of the suburbs.

There was also consideration by the CML to create a governmental mechanism that could assume a variety of metropolitan functions such as transit and air pollution control where the area's government and legislature agreed. When Robbie was retained as the CML's Executive Director in September, 1959, he noted the possible need for such a multipurpose agency as well, and promoted the idea in following years. He also served at this time as Executive Secretary of the antecedent Commission on Municipal Annexation and Consolidation.¹⁴

A bill was proposed in the 1961 legislative session to create an expanded metropolitan sanitary district. The MSSD included only the central cities although suburbs received service by contract. The new Metropolitan Sanitary District would include suburbs as well as Minneapolis and St. Paul. The bill was passed by the House but died in the Senate.¹⁵

The north suburbs, where the greatest amount of ground water pollution had occurred, were desperate. They reluctantly had agreed to hold off pressing for a separate district in order that the metropolitan district might be passed. But when that bill failed, they pushed and received an act that enabled them to set up the North Suburban Sanitary Sewer District (NSSSD). Joseph Craig became chairman of the district and later a member of the Metropolitan Council.

Between sessions, Clayton LeFevere, as president of the State League of Municipalities, created a metropolitan affairs committee to study metropolitan issues and particularly metropolitan area legislation. Governor Andersen in 1961 called the first Governor's Conference on metropolitan problems. One of the main concerns at that conference was with the related issues of sewage and water supply.¹⁶ In December of 1961, Andersen named the Governor's Metropolitan Area Coordinating Committee, chaired by LeFevere. This committee, without any financial support, met bi-weekly in the offices of the Metropolitan Planning Commission to address the issues identified at the conference particularly sewer and water.¹⁷

During 1962 the Metropolitan Planning Commission held a series of educational seminars on the sewer problem as a preliminary step to preparing a position for the 1963 legislative session. Those seminars included presentations from actors on all sides of the sewer issue. The views generally fell into three preferred approaches: "A metropolitan agency to design, construct and operate facilities throughout the area, a sub-regional approach with facilities under local control, and a contract approach with increased state control." The differences regularly centered on costs to individual governments for new facilities and value of existing facilities, timing of construction and water resource and water quality problems.¹⁸

The Governor's Metropolitan Area Coordinating Committee held a series of public hearings in the fall of 1962 on its recommended metropolitan district. The Metropolitan Planning Commission adopted a position favoring this metropolitan district as the best of four alternatives evaluated. The others were continuation of the present contract system, sub-metropolitan districts, and a core metropolitan district combined with sub-metropolitan districts. The Commission rated each against seven policy goals: comprehensiveness, timeliness, adaptability to future expansion, economy, cost equity, decisional equity, and coordination. The metro district received the highest rating followed by the combined core and sub-metropolitan district scheme.¹⁹ These meetings are only a fraction of the total held by others including the Citizens League, municipal and county organizations and chambers of commerce.

Phase III: Concern for Water Quality and Water Resource Use.

Paralleling these efforts was another action in the struggle between single district vs. sub-district and waste disposal vs. water quality approaches. On May 28, 1962 the State Water Pollution Control Commission (WPCC) held the first in a series of hearings on water quality classifications and standards for the

Mississippi River from the Rum River at Anoka on the northwest edge of the metropolitan area to the Saint Croix River at the southeast edge of the region. Particularly at issue was whether any outfalls from treatment plants would be allowed in the upper reach.²⁰ This affected whether the newly created North Suburban Sanitary Sewer District could build a treatment plant and discharge to the Mississippi or whether it would be forced to tie into the Minneapolis-St. Paul Sanitary District system.

When the 1963 legislative session got underway, the Governor's Metropolitan Area Coordinating Committee bill was introduced but failed to emerge from the office of the Revisor of Statutes, a necessary step for all legislation.²¹ Two other acts were passed, however,

Senator Rosenmeier put through a bill that: 1) prevented cities providing sewage service to others from making a profit and provided for the re-opening of contracts (Mayor Honsey's proposal),²² (2) "authorized the State Water Pollution Control Commission to order municipalities to establish or join sewage treatment systems"²³ Rather than a new system, this was an act to make the existing contract system work.

The second item that came out of the session was a bill by Representative Ashbach requiring MSSD to make a comprehensive study and report back to the legislature by 1 October 1964 on a solution for handling metropolitan sewage.

On March 28, 1963 the state WPCC adopted the new standards for the Mississippi including "prohibitions" which prevented discharge of treated sewage effluent into the upper reach of the river, namely the area where NSSSD wanted to place its outfall. The North Suburban Sanitary Sewer District appealed the regulations on July 1, 1963.

In a replay of action thirty years earlier, the governors of Minnesota and Wisconsin called for federal assistance. The secretary of HEW and the governors arranged a Federal/State Conference on Water Pollution in Saint Paul on February 7 and 8, 1964. The conferees called for an investigation and report under the federal act including water quality, sources and quantities of waste, the extent of pollution and necessary abatement measures.²⁴

The Minneapolis/St. Paul Sanitary District completed the plan report required by the 1963 Ashbach law and forwarded the plan to the State Water Pollution Control Commission and Metropolitan Planning Commission. The plan, as might be expected, was similar to the single plant alternative of the 1960 report. The southeast region was dropped since it was not served through the central plant. This also separated the tough issue of treating the packing plant wastes. The Lake Minnetonka region was removed, an area tributary in large part to the Minnesota River, also subject to WPCC discharge regulations. The upstream regional plants were eliminated based on the WPCC standards and regulations for the Mississippi River.

"Early in the 1965 session of the legislature a bill proposing a Metropolitan Sanitary District called the 1965 Ashbach bill was introduced

in the House of Representatives. At the same time the Water Pollution Control Commission made known its recommendations on the MSSD plan to the legislature in accord with the provisions of the 1963 Ashbach Act. The Commission declared its agreement with the engineering plans of the District, but returned the finance and cost apportionment plan to the cities with the recommendation that a single areawide metropolitan sanitary district be proposed to the legislature. The Commission further recommended that all capital costs of the District be financed by bond to be repaid by an ad valorem tax on all real property within the enlarged district, and that all operation and maintenance costs be met by a service charge to users of the system. The core cities declined to change their position after hearing the WPCC recommendations, reiterating the original finance and apportionment proposal of the MSSD plan as written into the Ashbach bill. Undoubtedly lack of time for further comprehensive study before the end of the session contributed heavily to the cities' stand pat decision. In the closing days of the session the Ashbach bill was passed in the House. The bill was then sent to the Senate where it was radically amended by the Senate Civil Administration Committee, as proposed by Wayne Popham of Minneapolis and inspired by the result of a Citizens League Report on Metropolitan Sewerage Needs published in April. The amendments simplified the bill's financing and cost apportionment procedures. The final bill, however, did not pass the Senate.²⁵ This marked the end of the narrow disposal solutions.

Another point for the sub-regional approach occurred in 1965 as the NSSSD objection to the state prohibition of effluent disposal went to trial and was decided in favor of NSSSD.²⁶

Most of the attention prior to the 1967 session turned from the sewer issue to the question of the need for a broader-based regional decision making body. In much of the discussion leading up to the creation of the Metropolitan Council, as mentioned earlier, was the need to solve the interrelated problem of water pollution and water resource, and to coordinate private development with public investments in the region. Virtually all the organizations which had discussed the creation of the Council mentioned sewage as a function that should be performed at the metropolitan level and for which the Metropolitan Council should in some way be responsible.

The 1967 legislature created both the Metropolitan Council and a state Pollution Control Agency as successor to the Water Pollution Control Commission. "The real test of the viability of the new Council was the issue of metropolitan sewerage. It was not clear, however, in the fall of 1967 that the issue could be delayed until the '69 session. The subregional districts, particularly in the northern suburbs were pressing hard on the state Water Pollution Control Commission to grant a permit for a major treatment plant upstream on the Mississippi at Fridley, arguing both that an outlet for that area's waste could not in good conscience be denied and that the plant proposed would meet state standards."

The Metropolitan Council gave sewers top priority. It began by examining the difficulties in previous attempts at passage of sewer legislation and from that drew a research strategy. A few of the main elements of that strategy are included here.

The first element of the strategy was to base the system on use of the water resources, the rivers and streams, for all purposes including effluent

disposal and to pay particular attention to the desirable location of incompatible uses such as domestic water supply, swimming, and fish propagation. The approach was not to optimize the location of plants from a disposal system standpoint, but to balance that with alternate needs. The result was that potential treatment plantsites were identified at locations for which there was no desired conflicting use. This did allow regional plants. From an environmental standpoint many of the arguments of the suburban engineers were deemed correct. The rivers could absorb more if the loads were dispersed. The policy was that they should not be dispersed to the extent that no other use could be made of the stream or that desirable uses would be prevented when alternate treatment sites were available.

The Council scheme had some regional plants, but less than the suburban schemes. There was no plant on the upper Mississippi or on the St. Croix; but there were regional plants on the Minnesota. The St. Croix is a very pure river and part of the National Scenic River system. The Mississippi is next in quality. The Minnesota suffers from a high level of turbidity and therefore is not desirable for swimming or fish propagation even if no effluent were in the stream.

To compensate for treatment plant locations at other than the least cost location, the Council introduced the concept of "metropolitan benefit" (See Chapter II, p. 37, 38 for further description).

A second element of the strategy was to avoid detailed engineering and to focus on the policy issues with which the legislature could readily grapple. It was obvious in previous sessions that the legislators became dazed with conflicting, highly technical testimony about diametrically opposed systems. An additional factor had to be recognized. Some of the schemes may have been influenced by their effect on the financial welfare of the consultants. The MSSD used only one consulting firm. If it were to be expanded the possibility that it would pick up all of the consulting for the metropolitan system was not an issue that could be ignored. There were firms who traditionally worked with local governments in portions of the metropolitan area. Therefore the Metropolitan Council contracted with those firms to bring to the Council the best thinking of each on the problems and potential solutions in their part of the metropolitan area. Additionally these firms were asked to suggest the best national firm to work with the Metropolitan Council and themselves on a metropolitan solution. The firm had to be one with no prior involvement in the Twin Cities. Almost unanimously they picked the same firm of Metcalf and Eddy in Boston who were then retained by the Council as consultant.

Some of the most difficult issues surrounded costs, their determination and allocation. There were concerns that the central city would have to pay for the suburbs' systems, or that existing development would have to pay for new construction. Several related strategies were pursued to balance these conflicting views.

As the move toward a central system was occurring, and with the new joint powers authority granted in the 1967 PCA act, the suburbs began organizing joint power sewer districts. Three were formed in 1968.

The B.E.B. district included three suburbs south of Minneapolis straddling the Minnesota River. The Southwest Sanitary Sewer District included the area around Lake Minnetonka to the west of Minneapolis and abutting the Minnesota beyond the B.E.B. district. East of St. Paul, several suburbs joined to create the W.O.N.E. district but contracted to dispose of sewage through the MSSD system. The regionalism was reinforced when the Minnesota Supreme Court ruled in October 1968 that the NSSSD could not be prohibited from an outfall that met PCA standards.

In drafting a plan, these district areas, the MSSD area and other sub-regions were defined as sewer service areas, and as taxing districts for facility purposes. A service area board, advisory to the proposed Metropolitan Sewer Board, was enabled for each region. This enabled maximum retention of previous organizational and financial commitments compatible with a new metropolitan system. Further, this seemed to obviate the need for any buy-out of existing facilities. Later amendments moved all treatment plant costs to a single metropolitan pool and incorporated a rental charge or limited form of buy-out.

Charges were split between current and future users to further attempt to allocate costs to those benefitting and not put all the load on existing development. The scheme drew on theories of property taxation and land development to enable the costs to work compatibly with regional development objectives. That capacity in both treatment plant and interceptor that was constructed for some use in the future, it was theorized, should be allocated against undeveloped land. In that way, under the theory of land taxation, it would tend to force the land on the market bringing it on the market in advance of land farther out where leap-frog development was occurring. Also it would tend to be a restraint on overdesign.

As it turned out the theory went untested for two reasons. First in the process of setting up a politically acceptable method of allocating costs, the costs for both current users and future users were certified to the municipality, leaving to each local government the choice of how it would raise the money for the bill--service charge, connection fee, property tax, or a combination. Almost all of the local governments elected to use service charges, thus placing the whole burden on current users. Second, even if they had allocated the cost to undeveloped land, it is likely that the charges would have been deferred. The system was expanded at such a rapid rate that the charges would have been confiscatory. A more recent shift to the sewer availability charge (SAC) removes the last vestige of tying the fee to a planned area of land.

The issue of cost allocation had long been a tussle. Suburban communities argued for a uniform or average cost price and the central cities argued for pricing in which the cost rose with distance from the treatment plant, or in effect, marginal cost pricing.

In Minnesota, at that point in time, a concept of equity was pushed in which user charges and average cost pricing were the order of the day. The barriers were being broken between the two cities. In 1956 the toll call between Minneapolis and St. Paul was dropped, and now the region boasts one of the largest toll free calling areas in the nation. More recently, the separate fares of the Minneapolis and St. Paul transit systems were eliminated. The sentiment was for average cost pricing, but that meant the central cities would be the bankers. The first report that went out for

discussion in the summer of 1968²⁷ contained a goal of average or utility cost pricing but the plan relied on the concept of service areas for cost allocation. Based on reaction to that, the revised plan in January 1969 proposed that treatment plants be costed on an average cost basis while the interceptors would remain a cost to the service area where the interceptor was located. This meant that the extensions of the existing interceptors out into the new service districts would be paid for solely by the suburbs and not by the central cities.

There were many more trades to come, however, before the final bill was packaged and more still before final passage. More detailed history of the passage of the bill is recorded well by Baldinger and Kolderie and will not be duplicated here other than to say that the sessions were long, the debates were energetic, and the negotiations were hard. It was obvious that the Council had done its work well and that the legislature was relatively pleased with the quality of that work. Questions were capable of being answered. When there were differences, they were traced to being honest differences of opinion or legitimate differences of interest. The bill was passed; the Metropolitan Sewer Board was created as a subordinate administrative agency of the Metropolitan Council.

Basically the split of functions were: (1) the Metropolitan Council would be responsible for establishing broad policies, the system plan, bonding, capital budgeting, annual budget approval, and approval of facilities; (2) the Sewer Board would be responsible for design and construction, operation and maintenance, preparation of the annual budget, and preparing charges for municipalities; and (3) the municipalities would be responsible for determining how funds are to be raised to pay the metro bill, for participation in a service area advisory committee, if created, and for preparing local comprehensive sewer plans compatible with the metropolitan plan.

"The Metropolitan Council appointed the Sewer Board in July, chaired by Milton Honsey, former Mayor of New Hope. A chief administrator was appointed by late summer and instructions for the take over of municipal and subregional facilities were issued in the fall. The Council's Development Guide on sewers was completed in November and hearings held in January, 1970.²⁸ (See figures 5 and 6 for the magnitude of change proposed.) Once the Metropolitan Council plan was adopted, the Sewer Board began acquisition of local treatment plants and the interceptors which were to become a part of the metropolitan system. All facilities were in metropolitan ownership by January 1971. Guidelines were then issued to municipalities for the preparation of their comprehensive sewer plans. In April 1971 the Council sold its first bond issue for the expansion of new regional plants and the modernization of the old metropolitan plant downstream on the Mississippi."²⁹

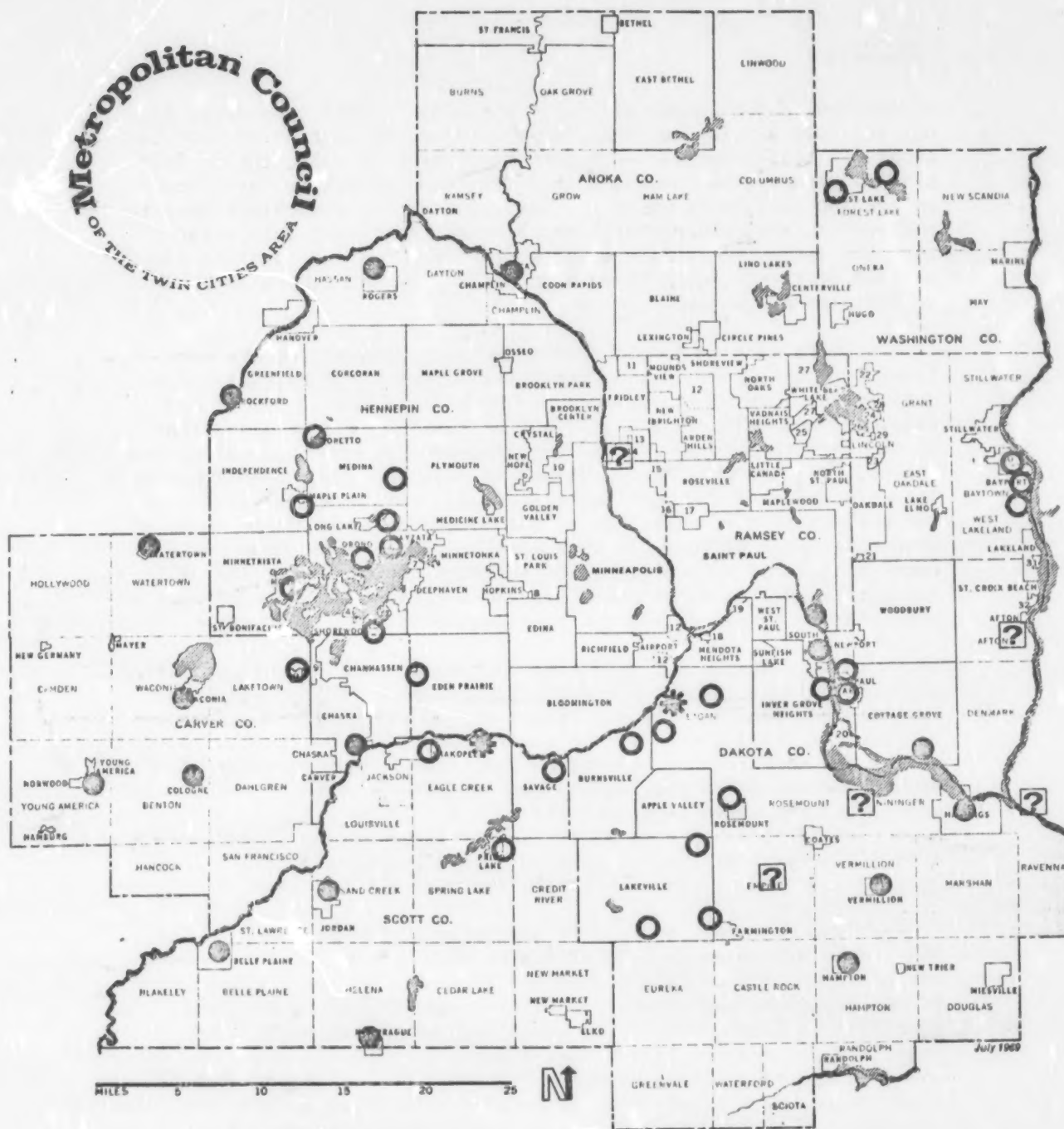


Figure 5. SEWAGE TREATMENT WORKS BY YEAR 2000

- Permanent, Existing in '68
- Interim, Existing in '68, Removed by 2000
- ◐ New Interim
- ✱ New Permanent
- Further Study Required
- ▭ Service Region

Source: Metropolitan Council, "Sanitary Sewers, Policies, System Plan, Program" in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1970), p.34.

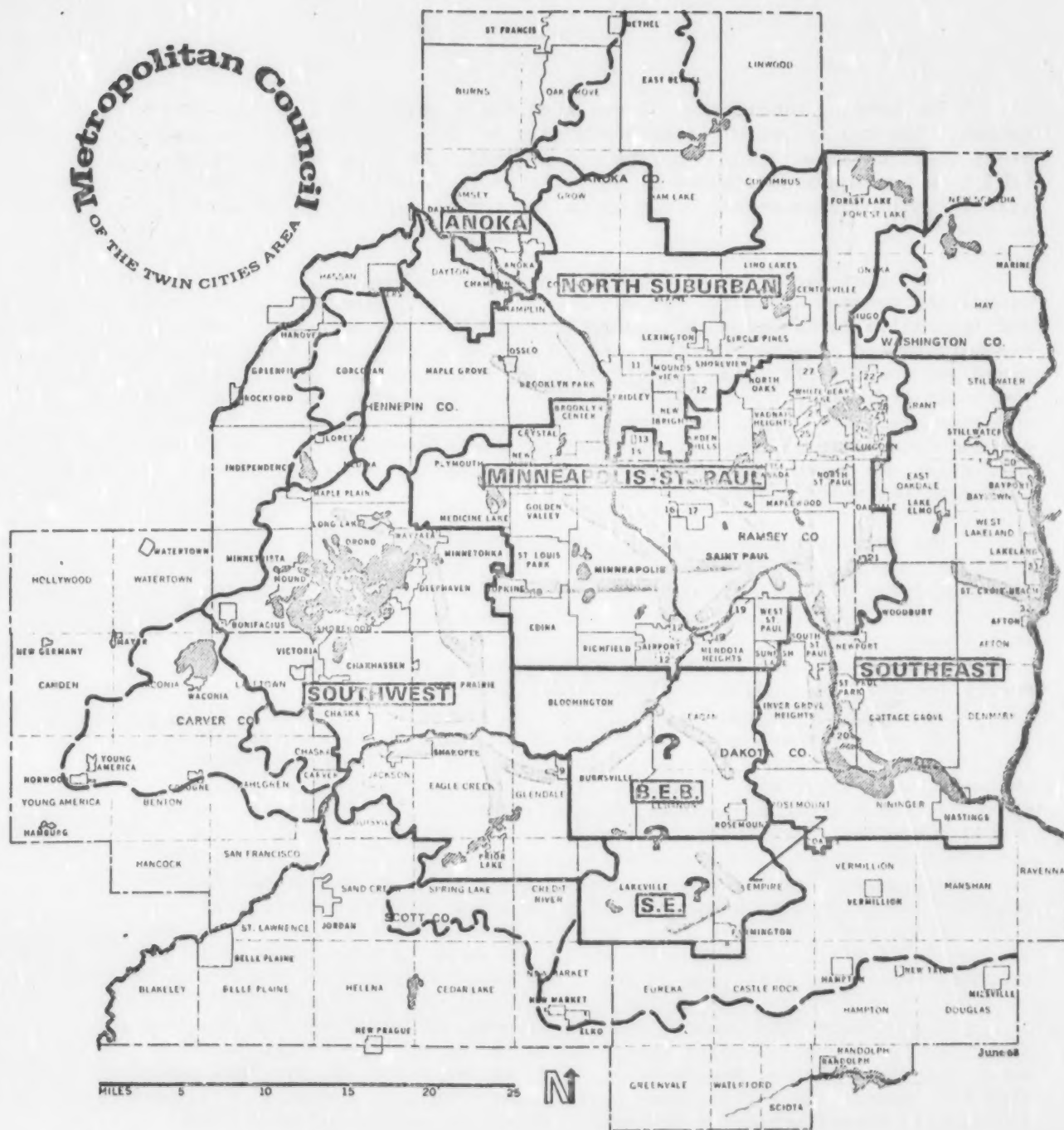


Figure 6. PROPOSED SERVICE AREAS & INTERCEPTOR CORRIDORS TO YEAR 2000

———— Service Area Boundaries to Year 2000
 - - - - - Possible Extensions after 2000

———— Corridors
 ? Further Study

Interceptor corridors represent approximate locations of interceptor sewers that would serve all communities within the Metropolitan Sewer Service Region.

Source: Metropolitan Council, "Sanitary Sewers, Policies, System Plan, Program" in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1970), p.35. 1-56

The bonding program was large, even for a region of 2 million population. The two issues of sewer bonds sold in 1970, the year of the take over, totaled \$56 million.³⁰ By the end of 1972, the total had risen to \$103.7 in bonding supplemented by \$45 million in federal grants. The 1972-76 capital improvement program called for an expenditure of \$211 million.³¹

The Sewer Board was acting out the role suggested by the 1970 Stanton Associates management study. It was being "vigorous, innovative, dedicated and responsive to the metropolitan area served."³² However, this rate of expenditure and construction began to produce some strains between the Board and the Council. The Council felt the Board was moving too fast. The local pressure for extensions was high and remained so until the first round of bills were received. Then a more thoughtful stance began to emerge. But the Council-Sewer Board tension was to remain manifesting itself later in whether the Sewer Board (Waste Control Commission) should be given authority for solid waste.

The innovations included an advanced physical-chemical process treatment plant; a pilot project with the U.S. Department of Agriculture, the University of Minnesota Agricultural Experiment Station, and others to test the use of sewage sludge in agriculture; and a proposed pyrolysis unit (later turned down by the Metropolitan Council) to simultaneously provide a means of solid waste disposal, sewage sludge disposal, and energy for the main treatment plant in the system.³³

While this study could not evaluate the data to show water quality improvement, the records show it is occurring, significantly. From 1969 when the Sewer Board was created to 1973, Secchi disk depth readings in parts of Lake Minnetonka improved from a beginning of 4-5 feet to depths of 6-7 feet four years later. And programs there had just begun. The water quality in the Mississippi River at a monitoring station some five miles downstream from the main treatment plant was recorded as one milligram per liter of dissolved oxygen in 1970 and a minimum of more than 5 milligrams per liter in 1975. The water quality in the river is at the highest level since record keeping began 48 years ago upon completion of the MSSD plant, the first one on the Mississippi River.³⁴

The Metropolitan Council and its subordinate Waste Control Commission can effectively control point source pollution as defined by the federal Water Pollution Control Amendment of 1972. If the proposed mandatory planning bill passes the legislature, which seems likely, the Council will have substantial direct authority to control non-point source pollution under the act (see the section on "Other Environmental Measures"). In fact, the Twin Cities organization including the State Pollution Control Agency, Department of Natural Resources, and Environmental Quality Council, combined with local governments, the Waste Control Commission and watershed districts, coordinated by the authority of the Metropolitan Council probably comes as close to meeting the organizational requirements of the 1972 act as any organization in the country. It is ironic, then, that the Metropolitan Council is ineligible as a 208 agency because its governing board is not composed of local elected officials.

Footnotes

¹ Citizens League, Report and Recommendations on Twin Cities Metropolitan Area Sewerage Needs, (Minneapolis: Citizens League, 1965), pp. 28, 29.

² League of Women Voters of Minnesota, A Metropolitan Sanitary District in '67? (St. Paul: League of Women Voters of Minnesota, 1966), p. 2.

³ Citizens League, p. 30.

⁴ League of Women Voters, p. 2.

⁵ Ibid., p. 3.

⁶ Ibid., p. 3.

⁷ Ted Kolderie, "Governance in the Twin Cities Area of Minnesota", Regional Governance: Promise and Performance, Volume II. (Washington, D.C.: Advisory Commission on Intergovernmental Relations, 1973), p. 115.

⁸ Ibid.

⁹ Citizens League, p. 31.

¹⁰ Stanley Baldinger, Planning and Governing the Metropolis, The Twin Cities Experience. (New York: Praeger, 1971), p. 84.

¹¹ Minneapolis Star, January 5, 1965.

¹² Ibid., February 8, 1965.

¹³ Ibid., February 1966.

¹⁴ Baldinger, p. 80.

¹⁵ Citizens League, p. 30.

¹⁶ Ted Kolderie, "Our Metropolitan Future", Minneapolis Star series, October 25-29, 1965.

¹⁷ Metropolitan Planning Commission, Newsletter, March 1963.

- ¹⁸Metropolitan Planning Commission, Newsletter, October 1962.
- ¹⁹Metropolitan Planning Commission, Newsletter, November 1962.
- ²⁰Minnesota Pollution Control Agency "Memorandum of North Suburban Sanitary Sewer District", Jan. 20, 1969.
- ²¹Minneapolis Tribune, Oct. 11, 1964.
- ²²Ibid.
- ²³Metropolitan Planning Commission, Newsletter, September 1963.
- ²⁴Summary and Pollution Abatement Recommendations for the Upper Mississippi River and Major Tributaries, (Washington, D.C.: Federal Water Pollution Control Administration, 1967), p. 22.
- ²⁵League of Women Voters of Minnesota, "A Metropolitan Planning District in 1967?", pp. 6-7.
- ²⁶Minnesota Pollution Control Agency, "Memorandum of North Suburban Sanitary Sewer District".
- ²⁷Metropolitan Council, Metropolitan Sewer Plan: A Preliminary Concept Plan, (St. Paul: Metropolitan Council, July 1, 1968).
- ²⁸Metropolitan Council, Metropolitan Sewerage Plan, (St. Paul: Metropolitan Council, January 30, 1969).
- ²⁹Ted Kolderie, "Governance in the Twin Cities Area", pp. 120 and 121.
- ³⁰Metropolitan Sewer Board, The First Report 1969-1972 to the State Legislature, (St. Paul: Metropolitan Sewer Board, 1972).
- ³¹Metropolitan Council, 1971-1972 Biennial Report to the State Legislature, (St. Paul: Metropolitan Council, January 1973), p.9.
- ³²Stanton Associates, Inc., "Metropolitan Council Management Guide Draft", July 10, 1970.
- ³³Metropolitan Sewer Board Newsletter, Outfall, June 1972, p. 1; May 1973 pp. 2-3 and June 1975, p. 1 of what became the successor organization, Metropolitan Waste Control Commission.
- ³⁴Ibid., December 1975, pp. 1 and 2.

AIRBORNE RESIDUALS

Minneapolis passed an air pollution ordinance February 9, 1894¹ titled "Dense Smoke Prohibited". The ordinance did not define the term "dense smoke" but did declare it a public nuisance. Enforcement responsibility rested with the Commissioner of Health and the Superintendent of Police. In 1905, the City created an "Inspector of Smoke" to enforce an ordinance titled "Smoke, Dust & Gases".² His duties were to inspect furnaces, boilers, heating plants and stationary train engines for compliance with the dense smoke, dust and gases ordinance. In 1925 an ordinance was passed governing and licensing use of dangerous gases such as hydrocyanic acid, cyanogen and cyanide gas.³ St. Paul also passed an ordinance in 1925. By the late 1940's both Minneapolis and St. Paul had air pollution control agencies.

At the state level from 1957 to 1967 the State Board of Health was empowered to adopt protective standards. In 1967 the Minnesota Pollution Control Agency was created and empowered to regulate air pollution in accord with Federal standards. "Minnesota and the Minneapolis/St. Paul metropolitan area enjoy a 'clean' reputation resulting from fortunate weather and topographical conditions, a lack of undue concentration of heavy industry and fairly moderate automobile traffic".⁴ Under the Federal legislation, Minnesota is located in the Great Plains Atmospheric Area, and the Minneapolis/St. Paul metropolitan area is an Air Quality Control Region.⁵

For a metropolitan agency, air pollution is a different issue from water pollution or solid waste. In both water pollution and solid waste a service is provided to an agency or firm which has waste requiring disposal that it cannot handle by itself. Air pollution is not a question of taking the pollutant and disposing of it, but rather restricting pollutant emission or restricting the location of pollution emitting land uses. In other words, it is a regulatory or policing program. For that reason it provides political problems for elected officials. It means limiting people's freedom to do as they wish. It could mean, for example, restricting development in the downtown areas of Minneapolis and St. Paul. These aspects, as well as the lack of direct legal authority to obtain federal funding to plan or to implement any plan once prepared are compelling reasons for lack of participation by metropolitan agencies across the country and in the Twin Cities to date.

The Metropolitan Council also was created by the 1967 legislature but did not immediately get into air pollution even though its legislation stated "the Metropolitan Council shall engage in a continuous program of research and study concerning...the control and prevention of air pollution..."⁶ However, in February of 1968 the Metropolitan Council had communication with the Metro Clean Air Committee (MCAC), a citizens' pollution control group trying to create a uniform air pollution ordinance. The committee wondered if the Metropolitan Council would be interested in working with them on this matter. The February 22nd Council meeting minutes noted that Chairman Hetland suggested the Community Services Department monitor the committee's activity. Councilman LeFevre moved that staff be requested to prepare a statement for Council consideration. A month later on March 15, 1968

an air quality management seminar was held in St. Paul sponsored by the Minnesota Pollution Control Agency and the U.S. Department of Health, Education and Welfare. It set forth the existing problem, the effects of air pollution and measures necessary to abate the problem. It was attended by local government officials and private citizens.

Then on December 26, 1968, Senator Mel Hansen and G. Robert Johnson of MCAC spoke to the Metropolitan Council. They recommended handling air pollution on a regional basis and thought it feasible for the Metropolitan Council to assume responsibility for regional control programs. They asked what action the Council was prepared to take to obtain legislative authority. Council member Clayton LeFevere moved that the Chairman prepare recommended procedures for considering air pollution and his motion was carried. This was on the eve of the 1969 legislative session for which the Council had been actively preparing legislation to handle water pollution through the creation of a subordinate sewer board and to handle a number of other functions related to highways, open space, solid waste and a metropolitan zoo. The Council was not overly anxious to take on an additional topic at this late hour.

On January 23, 1969, Mr. Nethercut of the staff briefed the Metropolitan Council, recommended the MCAC position that the control of air pollution should be on a regional basis and operated by the Council. He noted that HEW was going to hold hearings about mid-February relating to the Air Quality Control Regions to be designated by June, 1969. The act does not require involvement of regional planning agencies, but encourages regional control programs. Bonus grants for the support of air pollution planning and control programs are authorized for regional air pollution control agencies as contrasted to state and local agencies. Mr. Nethercut observed that the Council could be given the operational authority for air quality standards. It would have the advantage of avoiding proliferation of single purpose districts.

Mr. Nethercut continued saying that air pollution is one aspect of an overall waste management problem that includes water, air and land pollution. If the Council is the implementing agency, there are several options for administering the control program. These include a separate administrative board, an additional waste management responsibility given to the Sewer Board, (now the Waste Control Commission), or a Council department with an advisory committee. He observed: "the nature and magnitude of the air pollution control program with emphasis on inspection and enforcement might not justify a separate administrative board, it might be most effectively handled by a department of the Council itself." There was concern within the Council, expressed in the memo, about adding responsibilities to the proposed Sewer Board at the outset because of the work it would have in taking over and expanding the existing sewage handling system in 1969 and 1970. He stated responsibility for carrying out such a regional program be placed under the Council, and it would be appropriate that the legislature designate the operational responsibility in 1969.⁷ A bill to do this was introduced as S.F. 1672 but failed to pass.

The Metropolitan Council met in early 1969 with the National Air Pollution Control Agency (NAPCA) to discuss establishing the boundaries for the Air Quality Control Region. The initial proposal by NAPCA included one county in Wisconsin which was the recipient of air pollution from the Allen S. King power plant on the St. Croix River. In discussions and negotiations with NAPCA it was argued that if

the Metropolitan Council was to play a significant role in air pollution in the metropolitan area it would be better if the geographic boundary of the region coincided with the seven counties of Council authority. Further, although the seven counties would not encompass the recipient of all pollutants, it would encompass all its generation: therefore, for management purposes the jurisdiction should be adequate to the task. NAPCA concurred in April, 1969 and established the region as seven-county.

Also in April as part of the same discussions the Metropolitan Council was asked to consider being the central laboratory for air pollution so that a single laboratory could be funded rather than the existing three--one each in Minneapolis and St. Paul and the State Health laboratory also in the capitol city of St. Paul. The Metropolitan Council members rejected this proposal but did express interest in participating in air quality planning. The central cities had mixed emotions in joining in such an arrangement. The advantage was that a metropolitan facility under the act was eligible for a higher ratio of federal funding than were the individual municipal laboratories. Further, the city of St. Paul had for some time been attempting to find a way of transferring its laboratory function in order to reduce its financial burden on the city. This it finally did in December 1974 with the State Agency (PCA) assuming full responsibility.

In January, 1970 a workshop was held to explain the purpose and methodology of implementation plans required under the federal act. The PCA, Council and Minneapolis and St. Paul program staff attended. This was followed through the spring with further staff meetings on organization for planning and for control. In March, agreement was reached on a joint effort for planning.

In June of 1970 the Executive Director of the Council was authorized to apply for an Air Pollution Planning Grant from NAPCA. Although the federal regional office had concurred in the method of proceeding with a joint effort administered by the Metropolitan Council, the Washington office did not because the Council was not an "air pollution control agency".

Therefore, on September 10, 1970 the Metropolitan Council approved a subcontract with the State PCA to do planning for air pollution control including work on the implementation plan and organizational structure for the control program. This time the regional NAPCA office expressed concern about the six month study time in light of a November 1970 date for completion of the first implementation plan. Funding of the implementation portion only was encouraged. At this point the PCA and Council agreed to withdraw the application and to use existing funds to complete the implementation plan.

The organization issue was again under discussion in preparation for the 1971 legislation. Dissatisfaction with the structure in the metropolitan area was again expressed.

During the extra session of the 1971 legislature, two bills were introduced which had an effect on the metropolitan air pollution control program. The first bill would have established within the Metropolitan Council framework a metro air pollution control program. Testifying before

a Senate committee, the Metropolitan Council did not encourage its passage since it would have required the Council to assume an operating role to enforce an air pollution control program. It was the opinion of the Council that the creation of such an agency within the Council framework would have been inconsistent with its fundamental purpose as a generalist agency. Based on Council testimony the Senate Committee abandoned consideration of this bill and considered an alternative state-wide bill which had been proposed by the PCA to authorize a delegation of its own authority to local governments. The PCA had done this administratively but the local governments questioned its adequacy as a basis for local expenditures.⁸

Under the terms of the PCA bill, additional powers were given to local units of government for air pollution control purposes. It provided that local units may receive delegative, administrative powers, implement an air pollution control program, and enter into joint agreement to create and implement regional air pollution control programs. This bill was enacted into law as Extra Session Law Chapter 14.

The intergovernmental relationship issue was not satisfactorily resolved by the legislation, however. Subsequently, counties and PCA staff proposed a county joint-powers Metropolitan Air Pollution Control Commission. Extended negotiations resulted in a proposal for county enforcement and Council planning and review under the PCA delegation. The approach is more fully detailed in Chapter 11 page 116. Representatives of EPA have made no advance commitment to this approach but have indicated a willingness to consider funding of such a regional organization so long as it retains ultimate PCA responsibility.⁹

The Metropolitan Council responded in May 1972 by voting that proliferation of agencies was contrary to the concept of the Council and then proposed a long term and short term approach. For the long term legislative action was called for to create a board on the Sewer Board model with the authority to plan and implement the plan within PCA guidelines. This involves authority to tag and to prosecute. For the short term, until the 1973 session, the Council would work with the PCA on a comprehensive plan for air pollution control; review of grant applications, capital programs, and air quality permit applications of the joint-powers commission; and preparation of a legislative proposal for a long term solution to the problem.¹⁰

In its biennial report covering the years 1971 and 1972, and published in 1973 the Council observed and recommended that: "Staff and budgetary limitations have prevented the MPCA from carrying out an effective air pollution control effort in the metro area. As such, the PCA has been considering a number of alternative recommendations for improving metro air pollution control efforts. The MC feels that air pollution is primarily a regulatory-enforcement function and that the PCA as a regulatory-enforcement agency is in the best position to carry out an effective program in the metro area. However, it is important that plans and programs developed by the PCA for air pollution abatement be coordinated with the general planning for the metro area. The Council recommends that an adequately funded and staffed metro section of the PCA be established to cope with air pollution problems in the Twin Cities metro area and that the MC prepare a development guide section for air quality control and review any plans or programs developed by the PCA for air pollution abatement in the metro area."¹¹

That is where the issue stands today. Some legislators are attempting to prevent the Metropolitan Council from moving into more areas of activity and thus

support the PCA handling of this function.¹² Yet the PCA has been inadequately staffed to perform the function. The Sewer Board proposed taking on this function among others but was not favorably received by some Council members and legislators. Such a broadening of the Board is consistent with 1968 views of its potential role as a waste management agency. Stresses between the Council and Board have apparently prevented that option from being pushed further although the 1974 name change to Waste Control Commission is a step in that direction.

The staff of the Metropolitan Council sees air quality as important to regional development since air quality standards and other regulations combined with a state-wide air quality implementation plan may have a significant effect on the location of such facilities as major airports, highways, and industrial or commercial complexes.

It has been difficult for the Metropolitan Council, or general planning organizations at the metropolitan level, to receive funding for air quality planning from the Environmental Protection Agency, although funds from other agencies such as the Federal Highway Administration, Urban Mass Transit Administration and the Federal Aviation Administration may be available to appropriate regional agencies. The Metropolitan Council uses funds from those agencies and also cooperates with the Minnesota Pollution Control Agency in developing the metropolitan area portion of the state-wide implementation plan for air quality.¹³

Regulations for control of new sources were adopted in 1972 and include referral to the Metropolitan Council of any source emitting over 100 tons per year of combined pollutants. The Council had one such referral for a power plant in the first 18 months. Then the threshold for reviewing was raised to 1000 tons over Metropolitan Council objections. Indirect source regulations were adopted by the MPCA in early 1975. The downtown areas were required to be within ambient air quality standards by May 31, 1975. These generally have been met, but there are violations on certain days. These indirect source regulations, had they been continued at the national level, could have been combined with the Metropolitan Council "metropolitan significance" responsibility.¹⁴ Transportation implementation plans for air pollution could be combined with the Metropolitan Council's other transportation planning authority in which the Council is responsible for transit plans, is coordinator of the transportation planning process,¹⁵ must approve any further limited access roadway construction¹⁶ and may require inclusion of transit facilities in freeways.¹⁷

The Housing Chapter of the Metropolitan Development Guide contains a policy that new residential development should be prohibited where air pollution exceeds accepted standards and the negative impacts are not correctable by construction, site planning or other techniques.¹⁸ This policy is used in the advisory A-95 review process for FHA or HUD subsidized housing. The Council has no direct authority to stop construction but its reviews are generally heeded.

The most recent Guide chapter called the Development Framework bases allowable future growth primarily on existing investment in sewers, highways

and other support facilities. While lands to protect the hydrological cycle are considered, patterns of development related to air pollution are not. But they could be. Mandatory local planning which can be related to the Council's Development Guide is likely to be passed by the legislature in 1976.

In brief, the Metropolitan Council has substantial planning authority to assist in implementing air pollution strategies, particularly on the preventive side. The state pollution control agency and local governments hold the implementation authority. Therefore, more joint arrangements could be pursued if metropolitan air quality control legislation is not passed. To date, however, the Metropolitan Council has not actively pursued the topic in its planning or legislative activity. It has worked cooperatively with the PCA on implementation plans.

Footnotes

¹Robert L. Lines, "Air Pollution Control in the City of Minneapolis," Plan "B" Paper submitted to the University of Minnesota School of Public Health, 1973, p. 12.

²Ibid., p. 14.

³Ibid., p. 16-18.

⁴Minnesota Law Review, 1970, p. 956.

⁵Federal Register, June 2, 1975, Volume 40, Number 106.

⁶MSA 473.244.

⁷Metropolitan Council minutes, January 23, 1969.

⁸Metropolitan Inter County Council, "Metropolitan Air Pollution Control," (Background Memorandum) May, 1972, pp. 3-4.

⁹Metropolitan Council, Background Memorandum titled "Metropolitan Air Quality Control," May, 1972.

¹⁰Letter from Albert Hofstede to Grant Merritt, May 8, 1972.

¹¹Metropolitan Council, Biennial Report to the Minnesota Legislature 1971-1972 (St. Paul: Metropolitan Council, 1973), p. 18.

¹²Interview with Senator Robert Ashbach, October 1, 1975.

¹³Frank T. Lamm, "How a Regional Organization Assumes Environmental Responsibility", National Conference on Managing the Environment (Washington: U.S. Environmental Protection Agency, 1973), pp. VII-14 and 15.

¹⁴MSA 473.171.

¹⁵MSA 473.145.

¹⁶MSA 473.167.

¹⁷MSA 473.168.

¹⁸Metropolitan Council, "Housing Policy Plan, Program," in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1973), p. 16.

SOLID WASTE

In the mid-1960's it was noted that dumping was the most common method in the Twin Cities area for disposal of refuse.¹ Collection as well as disposal was a local government responsibility. No real crisis seemed to have developed but a change in attitude was materializing. Problems were emerging. Many disposal sites presented "air pollution and nuisance problems because of open burning of rubbish and garbage. Others located near rivers or streams or swamps presented threats to pure water supply because proper safeguards were not taken."² There were 20 dumps and land fills in operation. At least five additional ones had been closed in 1965 alone in the seven-county area because they were being improperly operated and neighboring residents were loudly complaining. The State Department of Health had the power to establish regulations but enforcement was left to local governments.³ Population was increasing as was the generation of waste. It was estimated that present sites would be full within 15 years. Additional sites were harder to come by as local governments tightened their zoning requirements.

Another factor was the problem faced by the larger cities and suburbs. Three municipal incinerators were in operation--two in Minneapolis and one in St. Louis Park. "Several businesses, industrial firms and institutions have their own private incinerators. One of the largest is the incinerator operated by the University of Minnesota. In addition, about 10 to 15 percent of the private dwellings in the Twin Cities area are equipped with indoor incinerators".⁴ One of the Minneapolis incinerators was built in the late 1920's. Neither of the incinerators was equipped to handle mixed refuse--rubbish as well as garbage.

Complicating the problem was rapidly changing technology for recovering valuable elements in solid waste or converting it to more useful products. But the technology was untested. Solutions were needed for the interim as well as the long range period. Furthermore, the solid waste problem divides into two quite separate functions--collection and disposal. Collection is considered a local function in the Twin Cities and is privately handled except in parts of Minneapolis and St. Paul. Disposal, as in sanitary sewage, is considered a metropolitan function.

In 1965 Congress approved the Solid Waste Disposal Act providing federal funds to public or private agencies for research, training projects, surveys and demonstrations.⁵ A year after passage the Citizens League observed "As far as we could determine, only one application has been made in Minnesota under this act, and that application was rejected. The application was made by the City of St. Paul early in 1965 for \$20,000 for a study of refuse collection and disposal in St. Paul and its immediate area. The proposed study did not cover the entire metropolitan area. We were informed that the proposal was rejected by the federal government, at least in part, because the study did not propose to cover the entire metro area."⁶

At that time, the mid-1960's, "According to personnel in the State Department of Health, the only enforcement power at the state level now

against dumps and landfills rests with the Water Pollution Control Commission. Under the Water Pollution Control Act, permits are required from the Commission for any waste disposal facility located in the following area:

- a) Where water is present at or near the surface, such as sloughs or swamps.
- b) In river flood plains which are subject to flooding.
- c) Adjacent to lakes or streams which drain to such waters.
- d) Ravines or valleys which may at times carry run-off or snow melt.
- e) Near municipal or private water supplies, either surface or underground.

"The Commission can require any one of a number of safeguards, such as diking around the site, diversion or containment of surface drainage, sealing of pervious soil or rock formations, covering of dumped or stored material to minimize erosion and control drainage and storm water percolation, regular supervision and control of operations."

The Citizens League study in 1966 recommended that the collection of refuse remain a local government responsibility and that garbage as well as rubbish be collected together and financed by general taxation rather than service charges. (The existing practice was private collection in Minneapolis and St. Paul.) The prohibition of open burning was suggested and broader use of incineration. The powers of ownership and operation should be vested in an areawide agency, either public or private with the MPC conducting the planning studies necessary to identify which agency. The unit should not be a single purpose government; county government is the lowest level considered possible.

At this same time, a consensus was emerging, leading to the establishment of the Metropolitan Council by the 1967 session of the Minnesota legislature. The function of "refuse disposal" was perceived by virtually all the community groups and legislative leaders as needing a regional solution. These groups were the Citizens League, the Metropolitan Section of the League of Minnesota Municipalities, the Hennepin & Ramsey County Leagues of Municipalities.⁸ The Metropolitan Planning Commission proposed that "standards should be established for the location and operation of sanitary landfills",⁹ noting that studies were currently underway as part of the 1967-1968 MPC work program.

The legislature established the Metropolitan Council in 1967. There was sufficient consensus that something had to be done at the metropolitan level concerning waste that the legislature imposed upon the Council the requirement to study "the acquisition of necessary facilities for the disposal of solid waste material for the metropolitan area and the means of financing such facilities" together with "recommendations as to the governmental organization, governmental subdivision, or district best suited to discharge the powers recommended."

The legislature gave the Council planning and coordinating powers but no operating authority. So in the fall of 1967 several local proposals were spawned. Minneapolis suggested the establishment of a Metropolitan Pollution Control Commission "to investigate problems of air, land and water pollution financed up to \$50,000 by contributions of member communities."¹⁰

The southeast Metropolitan Area Chamber of Commerce circulated a proposed joint agreement among municipalities in Dakota and South Washington Counties

"asking for their attorney's opinion on legality of participation and other questions from each governmental unit". The Citizens League Ad Hoc Committee suggested that would be only a limited solution; the solid waste problem encompasses the seven-county area. The CL recommends that no new "regional or areawide special districts, of metropolitan significance" be set up exclusively for research and planning. The committee also recommended that districts proposed for the provision of services be carefully reviewed by existing units of government and the MC before possible enactment. The original CL letter to its Board notes this 1967 rash to set up new special districts resulted from the 1967 legislature creating a "coordinating" Council rather than an "operating" Council which, as the Citizens League and most other organizations had recommended that previous spring, "would have taken on directly the responsibility for most new areawide functions".¹¹ The Citizens League Ad Hoc Committee on special districts was established in November of 1967 to encourage careful study and evaluation of the nine proposed special districts, via the Joint Powers Act, in advance of the legislature next convening in 1969.¹²

In January 1968 the Metropolitan Council appointed a Solid Waste Disposal Advisory Committee. It was to report recommendations to the Council by November of 1968. The Council also contracted with the consulting firm of Black and Veatch of Kansas City to study solid waste disposal problems in the metro area, define alternative system concepts and make recommendations. With the assistance of the Minnesota Pollution Control Agency (successor to the earlier Water Pollution Control Commission) they inspected each known disposal facility, noting that most were open, burning dumps with only three qualifying as "true sanitary landfills according to Public Health Service definitions".¹³

In its report, the advisory committee recommended a metropolitan solid waste disposal system using sanitary landfill as the basic disposal method for the next ten years. The Metropolitan Council would prepare and adopt a disposal system plan that would define the location and capacities of the sites. The plan would be designed to provide economical service to all parts of the area, set criteria for approval of disposal sites, and set standards for their operation. Counties would be responsible for acquiring, financing and operating the sites either directly or by licensing private operators. Their plans would be subject to approval by the Council based on consistency with the system plan. The Council would have authority to acquire and operate sites only if the county failed to act in accordance with the system plan.

Some Council staff and Council members were concerned about the proposal for two reasons. Although the Council prepared parallel legislation for solving the sanitary sewer problem as a single function, there was considerable discussion that the proposed sewer board eventually should assume more related waste management functions. Giving the solid waste function to the counties would make that future evolution more difficult.

More importantly, there was concern about whether the counties would accept the waste from other jurisdictions. The particular concern

was whether Ramsey County, almost completely developed and encompassing St. Paul, would be able to dispose of solid waste in the adjacent less developed counties-- Washington, Anoka and Dakota. Could an allocation plan be enforced?

Another consideration, though not an immediate concern because of the landfill approach, troubled some staff. Could the counties fund and operate a regional plan for incineration or waste recovery with large concentrated capital investments? The landfills were seen as strictly interim; the long term solution was very likely to be capital intensive with high technology requirements to meet more stringent air and water pollution standards.

But the die was cast. The advisory committee developed a consensus very rapidly. Considering the anti-Council stance of the counties, many saw this as a means of supportive, cooperative activity. The Metropolitan Council accepted the committee report and a bill was prepared.

The bill contained language to prevent the county or a municipality within a county from discriminating against haulers from other jurisdictions. But language to force counties to develop sites in areas specified by the Council was not included. The County program was required to be approved by the Metropolitan Council, but was not phrased to directly implement Council allocations. In the event a county failed to act at all, the Metropolitan Council was authorized to step in.

As the bill was introduced it was noted "the bill follows the committee's and the Council's intent very closely. There are some changes in details of administrative mechanisms. I believe these changes simplify procedures without changing the substance of the committee's intentions."¹⁴

Later in the legislative session in 1969 it was reported: "A number of amendments have been made, most of them deal with the relationship of the Metropolitan Council and the Pollution Control Agency powers. Probably the major amendment that was made was to strike the backup powers under which the Council would be empowered to take over and implement a county's solid waste plan if the county failed to act...The counties objected strenuously at putting the Council in an operating position...We don't feel that, practically speaking, this is a major loss to the bill.

"The other major county objection was to the mandatory nature of the Council's system plan. This is still the way the bill reads and this is the most important feature to be preserved."¹⁵ The bill was passed.¹⁶

For a further description of the 1969 Minnesota Solid Waste Disposal Act and the Metropolitan Council's participation in its implementation, see Chapter II of this report, pages 78-82 and 117-119.

The 1970 Solid Waste Management Chapter of the Metropolitan Development Guide mentions "economical reuse" of materials such as scrap iron and solid fill.¹⁷ It was not until later that the energy producing possibilities of solid waste became economically feasible and proposals offered. The 1974 Metropolitan Reorganization Act required the Council to make recommendations to the 1975 legislative session for solid waste recycling facilities in the seven-county area.¹⁸ Local governments and the private sector were undertaking feasibility studies for

energy recovery projects. The rapid shift in perception of this commodity as "waste" to be disposed of to a "resource" with value has triggered struggles for who owns the waste. Who has the authority to allocate it?

There are many competing proposals. The Waste Control Commission faces two problems at its main treatment plant that are related to solid waste--disposal of sludge and a rise in price and potential cut off of its current full supply. It proposed a pyrolysis unit using solid waste collected elsewhere in the region to solve these problems. The unit also would provide an outlet for solid waste in a part of the metropolitan area short of land fill capacity. A county proposed use of solid waste to fuel a steam plant. A major paper products company, in joint action with other private firms, has proposed using substantial amounts of solid waste for steam for its plant. Complicating the issue is the fact that collection was left to the private sector. Originally this meant a very large number of small operators. Today the majority of the business is concentrated in a few large organizations.¹⁹ Again, who owns the waste? Who has the authority to allocate it? Should it go to the public or private sector?

The 1975 advisory committee study of Solid Waste Management for the Metropolitan Council recommended source reduction (reducing waste before it is generated) as well as resource recovery. The rationale is that both have the goal of conserving materials and energy. The government structure proposal seeks changes in the law "in order to provide a resource recovery management structure as well as a guide for development of a resource recovery system". This would mean changing "the present emphasis on sanitary land fills and a solid waste disposal system that emphasizes resource recovery...and define the authority of the Metropolitan Council to develop a resource recovery policy plan. Additional authorities need to be clarified such as that of governmental units to develop proposals and market recovery materials as well as bonding authority.²⁰ The report goes on to recommend that the counties should continue their authority to acquire solid waste disposal sites and facilities. The MPCA should continue to adopt regulations and issue permits for location and operation of solid waste facilities.

The 1976 Metropolitan Council Work Program and Budget includes the production of "data and a draft report for a policy plan on resource recovery and for other policy planning as part of the Solid Waste Chapter of the Metropolitan Development Guide" as well as an economic and technical review of resource recovery proposals. An economic summary of three proposals was made in August of 1975.²¹

On the preventive side, the Minnesota legislature authorized the state Pollution Control Agency to establish guidelines on packaging of materials shipped into or produced in the state in the interests of resource conservation, reduction of energy consumption and solid waste generation.²² The act has not been implemented. Draft guidelines were prepared, but a workable official set of regulations has not yet emerged for the PCA.

Ban-the-can legislation has been introduced regularly in recent sessions but opposed by labor and industry interests with sufficient force to prevent passage. The bill is again before the 1976 session.

In conclusion, the first thrust of the Metropolitan Council was to an interim ten-year sanitary land fill disposal system. That shared-power system involving the State Pollution Control Agency, the Metropolitan Council, the counties, and private haulers, was neither the salvation hoped for by optimists nor the disaster predicted by the cynics. The final system has a markedly different pattern of sites than the Metropolitan Council plan. There is not enough capacity in Washington County, for example, and the Dakota County sites on the Minnesota River were kept open in response to Minneapolis pressure producing more capacity than planned.²³ The multiple permit system is a problem for private landfill operations. Each agency reviews only a part of the proposal, but each must concur. The landfills along the Minnesota illuminated the weakness in 1970.

The ten-year period was to buy time for new technology to be perfected for long-term solutions. But the energy crisis upset the timetable by making the solid waste valuable as a resource for materials and conversion to energy. The Council has responded to the legislature's request for a proposal to deal with resource recovery and is expected to act in the near future.

The stakes are now high, and the parties at interest are powerful. It is too early to know whether the resulting solution will be optimum in the public interest, that is, whether the waste as a resource will make its maximum potential contribution to society. It can be said without equivocation, however, that the metropolitan area has adequate tools and is using them to meet environmental pollution objectives.

Footnotes

¹Citizens League, Metropolitan Area Refuse Collection Disposal, (Minneapolis: Citizens League, 1966).

²Ibid., p. 13.

³F. L. Woodward, Director of the Division of Environmental Health for the State Department of Health, as quoted in Citizens League, Metropolitan Area Refuse Collection-Disposal, (Minneapolis: Citizens League, 1966), p.39.

⁴Citizens League, Metropolitan Area Refuse Collection Disposal, p.42.

⁵PL 89-272 now codified as Title 42§3251.

⁶Citizens League, Metropolitan Area Refuse Collection Disposal, p.40.

⁷Ibid.

⁸Citizens League News, (Minneapolis: Citizens League, February 28, 1967).

⁹Metropolitan Planning Commission, "Position Paper on Metropolitan Government", (St. Paul: Metropolitan Planning Commission, fall, 1966), p. 3.

¹⁰Citizens League, "Minutes of the Ad Hoc Committee on Special Districts", (Minneapolis: Citizens League, fall, 1967).

¹¹Ibid.

¹²Citizens League, Memorandum to the Board of Directors from the Ad Hoc Committee on Special Districts (no date), spring 1968, pp. 4-6.

¹³Metropolitan Council, Recommendations for Solid Waste Disposal in the Twin Cities Area, Report of the Solid Waste Disposal Advisory Committee to the Metropolitan Council, (St. Paul: Metropolitan Council, 1968), p. 3-3.

¹⁴Metropolitan Council, Memorandum from Robert Nethercut to the Solid Waste Advisory Committee, April, 1969.

¹⁵Ibid.

¹⁶MSA 473.801-823.

17Metropolitan Council, "Solid Waste Management, Policies, System Plan, Program" in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1970).

18Metropolitan Council, Study of Solid Waste Management and Resource Recovery in the Twin Cities Metropolitan Area, Summary, Conclusions and Recommendations, (St. Paul: Metropolitan Council, 1975).

19Interviews with John Boland, Chairman of the Metropolitan Council, and Richard Dougherty, Chief Administrator of the Metropolitan Waste Control Commission, 30 September 1975.

20Metropolitan Council, Study of Solid Waste Management and Recovery, pp. 10-11.

21Metropolitan Council, Memorandum titled, "Inter-relationship of Pyrolysis Facility with other Resource Recovery Proposals", August 13, 1975.

22MSA 116 F.

23Interview with Robert Nethercut of the Metropolitan Council, 30 September 1975.

NOISE

Using the Shull-Ehler classification, energy residuals encompass radiation, heat and noise.¹ Radiation is receiving very little general attention in the Twin Cities but is studied by PCA in relation to nuclear power plants. Heat is generally viewed as a form of water pollution in the Twin Cities and thus is treated in that section.

Although noise from freeways, industries and other sources is sufficient at times to create isolated complaints by residents, the main noise issue leading to metropolitan action was airport noise. The Minneapolis/St. Paul International Airport (Wold Chamberlain Field) is tucked tightly in between the two sister cities of Minneapolis and St. Paul on the bluffs overlooking the confluence of the Minnesota and Mississippi Rivers. Even though it is one of the larger sites for established metropolitan airports in the nation, the introduction of jet aircraft raised complaints from neighboring municipalities.

This concern was converted to action when these municipalities with the participation of the Metropolitan Airports Commission (MAC) created the Metropolitan Aircraft Sound Abatement Council (MASAC) in 1969. The purpose of MASAC was to recommend programs for alleviating noise impact on the residents of the airport environs. The agency was funded by the Metropolitan Airports Commission, reimbursed by the airlines using the airport.

When the Metropolitan Airports Commission proposed building a new major airport north of the Twin Cities in 1969, noise became a significant issue. The Metropolitan Council had the authority to suspend or veto the plan of the Airport Commission if it was contrary to its Metropolitan Development Guide or to the orderly and economic development of the region. The two agencies saw the role of the new airport differently. The Metropolitan Council proposed it as a replacement to Wold Chamberlain Field in order to solve the existing noise problem in that location, while the MAC saw the new airport as a reliever airport, that is, a facility to accommodate the traffic that exceeded the capacity of Wold Chamberlain.

The site issue was exceedingly complex due to such factors as the following: 1) different labor jurisdictions for constructing the airport north or south; 2) the economic effect of relocating the airport on existing airport-related development in the south part of the metropolitan area; 3) the north site would tend to stimulate employment in an area that was short on employment, whereas a new south site would tend to respond to the market already there; 4) questions about environmental impact in the Anoka sand plain, an area of high water table and soils with rapid percolation which had in the past experienced serious water pollution; 5) pockets of peat that must be removed for development. Around these and other issues that arose, many interest groups of residents and elected officials organized. There were those who wanted the airport for its benefits and others who fought it for its known and unacceptable side effects, particularly noise.

In April 1969 the Metropolitan Council was forced to suspend the plan as being incompatible with the orderly and economic development of the region. The Council based its action primarily on environmental concerns.²

That concluded, the Metropolitan Council joined the Airport Commission in preparing the Airport Zoning bill with the added assistance of local governments, because the act would be necessary for the development of any airport in the environmentally sensitive northern area. The meaning of this action was interpreted differently. Many saw it as guaranteeing approval of a north site if the proposal were resubmitted and the legislation were passed. The Metropolitan Council majority, however, saw it as a precondition to consideration of any site, not just the northern one. The act passed the legislature with very little discussion because, given the intense political nature of community debate on north versus south sites, the authors selected for the bill were both House and Senate committee chairmen through which the bill had to pass.

The act addresses two major concerns--noise and natural resource protection. Criteria for both these items are to be established by the Metropolitan Council. The local governments then are called upon to prepare plans and development controls that will ensure land uses compatible with the Metropolitan Council guidelines. The Metropolitan Airport Commission is required to acquire existing properties incompatible with anticipated noise levels through negotiation or eminent domain. The emphasis is on controlling development for compatibility with the airport. The act in no way attempts to regulate the operation of the airport. However, an operational limit is implied in that the Airport Commission must acquire noise impacted properties.

Selected municipalities worked with the Metropolitan Council and the Airport Commission in drafting the bill. They contributed the provision of cost sharing. The airport plan with its noise and environmental regulations would result in clustering of commercial/industrial activity in certain communities and residences in others. The municipalities wanted the opportunity to share tax revenue within the airport development area if that would prove beneficial.

Airport noise continued to be a difficult problem for neighborhoods in Minneapolis, St. Paul, Richfield, Bloomington and Mendota Heights across the river from the existing International Airport. The City Council of Minneapolis passed an ordinance in 1971 establishing a noise abatement function in the Department of Inspection. Many hoped it could restrict airport operations. Others took matters into their own hands and sued the Metropolitan Airport Commission the same year to prevent the noise caused by the airport or to obtain damages from the Airport Commission. That suit was before the Supreme Court for three years; it had to be re-argued before final action owing to the number of justices who had left the bench between the initial arguments and the time action was contemplated. The Supreme Court cited the state constitution:

"Private property shall not be taken, destroyed, or damaged for public use without just compensation therefor, first paid or secured."

and then ruled:

"However, not every inconvenience, annoyance, or loss of peace and quiet caused by aircraft using an airport will give rise to a cause of action in inverse condemnation against the airport operator. Inverse condemnation should be permitted only where such airflights constitute a direct and substantial invasion of property rights of such a magnitude that the owner of the property is deprived of its practical enjoyment and it would be manifestly unfair to the owner to sustain thereby a definite and measurable loss in market value which the property-owning public in general does not suffer. To justify an award of damages, these invasions of property rights must be repeated, aggravated, must not be of an occasional nature, and there must be a reasonable probability that they will be continued into the future."

The Court then remanded the matter to the District Court as the appropriate party to handle complaints from individuals concerning actual damage.

To date, no suits have been resolved and at the moment they are somewhat in limbo. Part of the reason for this lack of further legal action was an active noise reduction program on the part of the Airport Commission. With the assistance and urging of the MASAC, a preferential runway system and other steps to reduce noise from the existing operation were implemented. Forecasts of future operations indicate that continued improvements will occur.

As a consequence of these noise problems at Twin Cities International Airport, a study was commissioned to develop strategies for abatement.³

Lloyd Hinton and John Tyler of Aviation Systems Inc. also worked with staff of the Minnesota Pollution Control Agency in drafting legislation for state level noise regulation for the 1971 legislature. That law was passed, one of the first in the nation, and broadened the responsibilities of the Pollution Control Agency, enabling it to control noise from all sources--industry, highways, airports and others.⁴ The Minnesota Act is fairly comprehensive and is compatible with the later national act⁵ in that the national act primarily controls noise at the source whereas the Minnesota act primarily controls the operation of noise sources. The state law directs the PCA to "adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere".

The standards have been established by the state agency but with no implementing regulations for highways, airports or industries. The implementation measures shown on the chart are proposed. These standards are more stringent than the Federal guidelines of the Department of Transportation. For example, the Federal Highway Administration proposes that noise impact on residential areas not exceed 70 dBA more than 10% of the time as a general standard.⁶ The Minnesota standard has lowered that to 65 dBA for 10% of the time.⁷

On September 1, 1971, HUD published circular No. 1390-2 titled, "Noise Abatement and Control". This was developed in part as a consequence of work in connection with the Interagency Noise Abatement Program (IANAP) of the Federal government. Both Lloyd Hinton, the first Executive Secretary of MASAC, and Robert Einsweiler, then Director of Planning for the Metropolitan Council, were advisors to the IANAP Land Use/Airports Committee chaired by HUD.

Within the Twin Cities metropolitan area there has been relatively little use of the circular's provisions, since it requires the voluntary cooperation of the lender on non-FHA insured mortgages. It is not necessary for developers to have an FHA clearance although many attempt to have their projects qualify. Lenders tend to use these criteria when they have less money to loan than people requesting it. They tend to ignore these criteria, especially with single family housing, when individuals are aware of the noise.⁸

The Metropolitan Council authority in noise is still relatively limited. It would have substantial authority to control development if a new airport were built; however, that is not very likely in the near future given the reduction in airport noise stemming from recent reduced travel due to the state of the economy. Another factor is increased use of wide-bodied jets which has enabled the number of passengers to rise without increase in the number of aircraft operations.

The Metropolitan Council has no express authority over the Metropolitan Airport Commission in its noise abatement programs other than where a program may exceed the \$2 million capital project approval criterion of the Metropolitan Council Act,⁹ or the requirement that plans for new facilities be compatible with Council plans.¹⁰ It must approve all future limited access highways before they can be built¹¹ and can require transit in freeways.¹² These acts, like those for airports, could have some limited effect on noise.

Further the state legislature has directly mandated two programs to abate noise. One was a program requiring the Metropolitan Airport Commission to install berms and other buffers on the perimeter of the airport¹³ and a second is a continuing program requiring \$1.1 million per year in highway funds to be spent on abating noise of the state highway system through the erection of barriers and other means.¹⁴

There is no specific mention of noise pollution in a recently prepared final Transportation chapter of the Development Guide.¹⁵ Instead, Noise is combined with Air Quality in the term Environmental Standards. The policy refers to the need for consistency with state and federal standards in the planning and design of transportation facilities. The Metropolitan Council proposes a major study on this for 1976. The Airport section of the Development Guide contains a noise standard for use around the airports, but that standard would now be superseded by the authority of the State Pollution Control Agency.¹⁶ The Housing Chapter of the Development Guide contains a policy that new residential development should be prohibited when noise or air pollution exceed accepted standards and the negative impacts are not correctable by construction, site planning or other techniques.¹⁷

In brief, then, the prime authority for noise control is vested in the State Pollution Control Agency. The Metropolitan Council's direct authority for

noise would come into effect only in the event a new major airport were constructed. The Metropolitan Council has not established any policies directly with the Pollution Control Agency for incorporating noise into the Development Guide, although studies that may enable this to be done have been proposed. A noise policy related to housing can be reviewed along with other factors as part of the A-95 process but the Council has no direct authority to stop development. At this point in time, the Council's ability to manage noise pollution is limited and indirect.

Footnotes

¹Roger Don Shull and Charles N. Ehler, "Integrated Regional Environmental Quality Management: Extending the Concepts of Areawide Water Treatment Management", A paper presented to the 58th Annual Conference of the American Institute of Planners, 1975.

²Report of the Referral Committee, Metropolitan Council, April 23, 1969.

³Urban Facts, Aviation Systems Inc. and Wm. S. Lawrence and Assoc., Inc., A Program for the Reduction of the Impact of Aircraft Noise Around Minneapolis/St. Paul International Airport (Minneapolis: Metropolitan Aircraft Sound Abatement Council, October 1971).

⁴MSA 116.04 subd. 4.

⁵PL92-574.

⁶PPM 90-2, "Interim Noise Standards and Procedures for Implementing Section 109(i) Title 23 U.S.C.", April 26, 1972.

⁷Minnesota Pollution Control Agency "Regulation, NPC 1 and NPC 2 Final Draft", September 6, 1974.

⁸This information is based on the remarks of lenders in connection with a MAC project to acquire a number of houses off the end of the runway in Mendota Heights.

⁹MSA 473.621.

¹⁰MSA 473.165.

¹¹MSA 473.167.

¹²MSA 473.168.

¹³MSA 473.608.

¹⁴MSA 161.125.

¹⁵Metropolitan Council, "Transportation Policy Plan, Program," in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1975).

¹⁶Metropolitan Council, "Airports Policy Plan, Program," in Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1973).

¹⁷Metropolitan Council, "Housing Policy Plan, Program," in
Metropolitan Development Guide, (St. Paul: Metropolitan Council, 1973),
p. 16.

OTHER ENVIRONMENTAL MEASURES

The concept of environmental management has been evolving over the years in the Twin Cities area. It is made up of two parts--natural resource management as well as waste management. The Howe and White¹ concept of residuals management is comparable to the Metropolitan Council's concept of waste management.

Storm water drainage and protection open space work together to bridge these two management concepts. Protection open space includes steep slopes, wetlands, stream valleys, aquifer recharge areas and other areas where natural processes must be protected. In the Twin Cities it is tightly tied to the hydrological cycle. Protection of some of these natural areas--stream valleys and wetlands--can filter out pollutants in storm water (a waste management function) and recharge the ground water (a resource management function.)

Being at the headwaters of major rivers, surface water is somewhat limited. Ground water is abundant but there are two restraints on its use. Much of the area has very porous, sandy soil so pollution of the groundwater in the glacial till occurs easily. Many of the lakes in the region reflect the ground water table. When it falls, they drop too. Connections between the ground water in the glacial till and bed-rock aquifers are not fully known.

The evolution of the concept of protection open space can be traced in some of the reports. In April 1960 the Metropolitan Planning Commission published the Metropolitan Land Study (Metropolitan Planning Report No. 4). The Chapter on Drainage included descriptions of the seven-county area's marshes and ground water. It described the problems relating to flooding, fresh in people's minds after the 1951 and 1952 record floods.

In December of 1964, 4,000,000 by 2000! Preliminary Proposals for Guiding Change, was published by the Joint Program. Open space recommendations were dealt with under several headings--available land, site situation, conservation and preservation and water. Sewerage and storm drainage were dealt with under the heading "Public Facilities". The inter-relationship of the protection open space and storm drainage can be seen in their list of the actions recommended:²

"Conservation & Preservation

1. Keep drainage ways in their natural state to provide protected rights-of-way and impounding areas for storm run-off and to keep storage areas such as marshes and depressions open."

"Storm Drainage

1. Coordinate storm-water drainage plans for the entire metropolitan area.
2. To the extent possible, discharge the area's storm water run-off into natural impounding reservoirs such as lakes, marshes, or other depressions

to help recharge the area's diminishing ground-water supplies. Enact county and municipal watershed-protection programs, run-off controls, flood-plain zoning ordinances, and other restrictions on the construction of buildings on the flood plains of rivers and streams."

In April of 1965 a U.S.G.S. study noted:³

"There has been a moderate but not yet serious decline of water levels. As of the late 1950's the summertime pumping levels in most wells ending in the Jordan Sandstone in downtown Minneapolis and St. Paul still were not more than about 200 to 250 feet below the surface. Water levels in the Jordan are deepest in St. Paul--660 feet or less above sea level in the deepest part of the cone of depression in December 1958, as compared to about 720 feet in the deepest part of the cone in Minneapolis (Minnesota Dept. Conservation, 1961)...

"On the whole, however, there are no critical shortages or other serious problems affecting ground water. The future will bring some changes, though not necessarily severe shortages."

In 1966 the Metropolitan Planning Commission suggested that a metropolitan level of government be created by the legislature "in a form that is a slight modification of the multi-purpose district" with "comprehensive planning and programming carried out as a staff function to the governing body rather than as one of the operating departments".⁴ It recommends "detailed planning, acquisition, development, and operation of land and water for recreation, conservation, protection, and scenic purposes...in response to general policies and programs in the Metropolitan Development Guide and be implemented in part by the development controls department.

Instrumental in the establishment of the Metropolitan Council by the legislature in 1967 was the community's concern not only for the problem relating to sewerage needs, but also the questions of water supply as well as parks and open space.⁵

The February 28, 1967 issue of the Citizens League News noted that--most organizations saw parks and open space as needing full council responsibility. On storm sewers, the municipal organizations said "yes" to full Council responsibility. Not mentioning it were the Chambers of Commerce, Senator Ogdahl (co-author of the strong Council bill) or Governor LeVander. Proposing it for "coordinate" were Senator Rosenmeier, Representative Albertson (the authors of the weak Council bill) and Representative Frenzel (the author of the strong Council bill). See Table 1.

The 1967 session of the Minnesota Legislature established the Metropolitan Council, charging it with the preparation and adoption of a comprehensive development guide for an "orderly and economic development" of the area, "including land use, parks and open space land needs."⁶ The Council also was charged to undertake a continuous program of research and study for "the acquisition and financing of suitable major parks and open spaces within and adjacent to the metropolitan area", and "acquisition of necessary storm water drainage facilities for the metropolitan area and the means of financing such facilities".⁷

An Open Space Advisory Committee was established by the Council. They reached agreement "dealing with elements of an open space system, preservation techniques and governmental organization" and reported to the Council, October, 1968.⁸

In 1969 Ian McHarg completed a study for the Metropolitan Council concerning natural resource use and protection.⁹ It was the first ever undertaken for a metropolitan region, a comprehensive analysis of biophysical phenomena and processes. The purpose of the inventory was to develop a value system and to understand the opportunities and restraints which the land, air and water processes offer for land uses. As Mr. McHarg noted, "...any place is the sum of historical, physical and biological processes, that these are dynamic, that they constitute social values, that each area has an intrinsic suitability for certain land uses, and finally, that certain areas lend themselves to multiple coexisting land uses."¹⁰ This was used in sewer, solid waste, and open space legislation.

The Metropolitan Council recommended to the 1969 session of the Minnesota legislature a proposal for pursuing a metropolitan protection open space system based on the McHarg study defined as follows:

"Protection. Metropolitan Protection open space includes the following elements, defined primarily by physical characteristics, including geology and hydrology; flood plains, drainage ways, wetlands, recharge areas, and steep slopes. Preservation of such areas depends upon their intrinsic unsuitability for urban development.

"a. Flood plains should be preserved as first priority by state standards and guidelines that are adopted and enforced by counties, municipalities, or special districts, with review of enforcement and major amendments by either a state or metropolitan agency. Protection policy should limit building and human habitation in flood plains to those uses not severely damaged by natural floods, nor adversely affecting floodways capacity, and not causing a threat to health or safety when flooded.

"b. Drainage ways, wetlands, recharge areas and steep slopes should be preserved through standards and guidelines established by the Metropolitan Council; adopted and enforced by counties, municipalities, and special districts; with review of enforcement and major amendments by the Metropolitan Council to ensure consistency with regional policy.

"c. County and municipal governments have first responsibility to adopt and enforce ordinances preserving protection open space.

"d. Zoning, subdivision regulations, the official map, easements, and the assessment of permanent open space lands as "rural" should all be used in preserving the protection open space system."¹¹

A Metropolitan Park Board was established but it was limited to recreation open space. The Board was later dissolved because the bill was passed on the last day in violation of the constitution.¹² It was difficult in passage because the Hennepin County Park Reserve district, though a one-county body, had enabling legislation allowing other counties

to join it. Further the county agency saw the money going to the remaining counties under a metro system because they would have greater "need". The other counties had done very little in open space or parks.

Also in 1969 the legislature adopted the Shoreland and Floodplain Development Acts requiring counties and municipalities to adopt compatible ordinances acceptable to the State Department of Natural Resources. The areas included are shorelands within 1,000 feet of lakes or 300 feet of a stream or the landward side of a designated floodplain. The purpose was to prevent damage to property in the floodplain and to prevent stream and lake pollution.¹³

Once more in 1969 the legislature passed a protection open space bill called the Airport Zoning Act.¹⁵ One of its purposes was to guard the fragile natural systems and wild life refuge located near the site of a new major airport which has been proposed for Anoka sand plains north of Minneapolis and St. Paul. The airport was never built so the law is not operating; however, the environmental protection idea lives on. The current Airport Chapter of the Metropolitan Council's Development Framework states as Policy 29:

"The principles of the airport zoning and development act should be applied to all airports in the metropolitan area, and necessary legislation should be developed to protect general aviation airports."¹⁶

June of 1970 brought Metropolitan Council adoption of the Parks and Open Space Chapter of the Metropolitan Development Guide. This was produced in order to meet the HUD certification requirements and to carry out the Council's responsibility under Chapter 896, Session Laws of 1967 and Chapter 879, Section 4, Subdivision 4 of Session Laws of 1969.¹⁷ The section on Protection Open Space delineates policies and programs dealing with "ponds, lakes, streams, rivers, drainage-ways, floodplains, marshes, wooded swamps, wet meadows, and steep slopes--to assure proper functioning of the hydrological system".¹⁸ Program elements identify specific locations of top priority for acquisition and development. Also identified is the need to "work with the Minnesota Department of Commerce and local government units to develop and/or implement zoning ordinances and subdivision controls to protect floodplains, wetlands, slopes and other protection elements..."¹⁹ The plan was revised in 1973 but not materially altered.

The Council retained its Open Space Board as an advisory committee when the legislation was nullified. It continued to press for re-creation of a board but at each session was caught between balancing the Hennepin County problem with the other counties. One significant bill that did pass during this period was authorization of a \$30 million bond issue in Ramsey County (containing St. Paul) to acquire and protect stream valley drainageways. The case presented showed the expenditure would prevent the need for \$50 million in storm sewer construction.

In 1974, the Council continued its attempts to obtain protection open space legislation. It received a half loaf. The Council was required to prepare, prior to January 1, 1976, "standards and criteria and suggested model ordinances for the regulation of the use and development of the land within the metropolitan

area which will provide for:" and the act goes on to describe in detail listings wetlands, groundwater recharge areas, steep slopes, forests and woodlands, natural watercourses, unique or endangered species, agricultural lands, mineral lands, and natural resource areas of particular historical interest.²⁰

These guides are to be prepared with the assistance of specified appropriate agencies such as Agriculture, Natural Resources, and watershed districts. The local governments then may adopt the guides.

In December 1975, the staff forwarded a proposed set of model ordinances to the Environmental and Transportation Committee as the basis for a public hearing. These ordinances are quite stringent and would be handled as overlay districts in local zoning ordinances.²¹

The main line of attack on pollution from development would be through operation of the Development Framework, also adopted in 1975. Under the heading "Protecting the Environment and Ensuring Economic Growth" that report says:

The way in which the region develops will have a major impact on the environment. Scattered development has caused increased reliance on septic tanks. These have frequently failed and are causing increasing concern about the pollution of both the surface and ground water. While future improvements in on-site treatment may decrease the severity of the pollution danger, they will increase the danger of uncontrolled growth. Besides increasing costs for public services, uncontrolled development has resulted in the loss of many acres of wetlands, which are a valuable part of the hydrological system. Development threatens important open space sites which are needed for recreation or are valued for their natural features.²²

The strategies are emerging. They are not fully institutionalized. When they are, they should be fairly effective. In reference to Howe and White's Figure IV-1 or V-1, it can be seen that these "physical methods" are designed to control the spatial distribution of activities thereby reducing their environmental impact or to protect and use the current assimilative capacity of the natural environment thereby preventing the need for costly man-made waste treatment facilities.

Footnotes

¹ Richard S. Howe and Nicholas L. White, Development of Residuals Management Strategies, (Washington D.C.: U.S. Environmental Protection Agency, 1975).

² The Joint Program, 4,000,000 by 2000! Preliminary Proposals for Guiding Change. (St. Paul: Metropolitan Planning Commission, December 1964), Report Number Two, pp. 39-44.

³ Water Resources Research Center, "Statements Concerning the Ground Water Resources of Minnesota" by C.L. McGuinness (from "The Role of Ground Water in the National Water Situation," U.S. Geological Survey Water Supply Paper 1800) Information Circular No. 18, University of Minnesota Graduate School. April 1965. Twin Cities area.

⁴ Metropolitan Planning Commission, "Position Paper on Legislation for Metropolitan Government," (St. Paul: Metropolitan Planning Commission, fall 1966), p. 2.

⁵ Citizens League, Summary of Comments and Proposals in Areawide Governmental Problems of the Twin Cities Area, (Minneapolis: Citizens League, November 1966).

⁶ MSA 473.145.

⁷ MSA 473.244.

⁸ Metropolitan Council, "Work Program Status as of October 1, 1968", (Background Memorandum), October 4, 1968, p. 1.

⁹ Wallace, McHarg, Roberts and Todd Associates, An Ecological Study of the Twin Cities Metropolitan Area. (St. Paul: Metropolitan Council, 1969), p. 2.

¹⁰ Ibid., p. 2.

¹¹ Metropolitan Council, "1967-1968 Biennial Report Addendum B, Recommendations for Metropolitan Area Legislation". (St. Paul: Metropolitan Council, December 1968), p. 8.

¹² MSA 105.485.

¹³ MSA 104.04 (floodplain management ordinances) and MSA 105.485 (shoreland development).

¹⁴ Airport Zoning Act, Chapter 1111, 1969 Session Laws now codified as MSA 473.215.

¹⁵ Metropolitan Council, "Airports Policy Plan, Program" in Metropolitan Development Guide (St. Paul: Metropolitan Council, 1973).

¹⁶ Metropolitan Council, "Parks and Open Space Policies, System Plan, Program" in Metropolitan Development Guide (St. Paul: Metropolitan Council, 1970). p. 2.

¹⁷ ibid., p. 21.

¹⁸ ibid., p. 26.

¹⁹ MSA 473.204.

²⁰ Metropolitan Council, Memo to Environmental & Transportation Committee titled "Natural Resources Model Ordinances", Dec. 12, 1975.

²¹ Metropolitan Council, "Development Framework Policy, Plan, Program" in Metropolitan Development Guide (St. Paul: Metropolitan Council, September 1975), p. 11.

THE EVOLUTION OF ENVIRONMENTAL MANAGEMENT

Environmental management as a term is a relatively recent phenomenon. What it represents--some balancing of man's actions with nature--is also relatively recent as a nation-wide concept in the United States. Therefore an historical perspective can trace the elements of the concept as it emerged, but not the evolution of the complete idea.

As the other sections show in greater detail, the earliest environmental concerns of this urbanizing, industrializing place were the air quality and water quality. Both began about the 1800's at city level.¹ The strategy was to reduce the "dense smoke" at the source. For ground water pollution, the solution was to transfer it to the rivers. That led to the first metropolitan commission in 1927 and the first operating special district at the metropolitan level in 1933.² The Minneapolis-St. Paul Sanitary District built the first primary treatment plant in the region and on the Mississippi River in 1938.³

The MSSD was governed by representatives of Minneapolis and Saint Paul and could provide service to suburbs only by contract. As the pent-up need for housing was met after World War II, development spread across the countryside to be followed by newly created local governments. The double effect of more development to serve with more complex multi-community contracts slowed sewer extensions. The result was septic tanks, ground water pollution and "blue babies" from nitrate poisoning.⁴

The Metropolitan Planning Commission was created in 1957 to study these problems that transcended local boundaries, and the Minnesota Municipal Commission was created in 1959 to stop the proliferation of local governments.⁵

The operating environmental management system at this time consisted of the same single metropolitan sanitary district and individual local governments. There was a State Water Pollution Control Commission created in the mid-1940's, but it was relatively ineffective.⁶ It had a citizen board and was staffed by the water quality personnel of the state health department.

The evolution through the 1960's followed two paths. The efforts of the legislature, local governments, the Citizens League, League of Women Voters and others addressed the need for a new organization to collect and treat sanitary sewage. The Metropolitan Planning Commission primarily addressed region-wide needs and plans for a range of functions and for a suitable pattern of regional development. The MPC role in the sewer organization issue was in the main to relate it to the larger issue of the region's water resources.⁷ Its views on metropolitan organization were timid, reflecting the local officials board that governed the agency.

As the 1960's wore on, a wider range of environmental problems were emerging. The sewer problem was ameliorated in part by further construction of the Minneapolis-Saint Paul Sanitary District. The treatment plant was enlarged and converted to secondary treatment in 1966.⁸ The old central area incinerators were unable to handle the increasing quantity and

diversity of solid waste, and also were unable to meet newer air pollution regulations.⁹ New regional sewer districts were being created by legislative action or local joint powers agreements.¹⁰ All this was occurring at a time of new federal legislation that focused attention once again on water quality in the rivers.¹¹

The multi-functional nature of these problems combined with the failure of the Metropolitan Planning Commission to be politically effective in handling a proposed power plant in an environmentally sensitive area and continuing failure to pass metropolitan sewer legislation led to discussions of a broader scoped metropolitan policy body (see Governance section for details).

Meanwhile, the conceptual view of environment was evolving. The early work of the Metropolitan Planning Commission was development oriented in common with most planning in the late 1950's and early 1960's. The Metropolitan Land Study in April 1960 looked at land suitable for urban development. It subtracted wetlands, marshes, floodplains and other areas as unsuitable to get to net buildable land. The Metropolitan Parks study the following year looked at open space, but only for recreation. Water, sewers, transportation were studied as problems and contributed with others to a gradual consensus on the sewer problem. The policy work on sewers was lagging behind community debates.

By December 1964 with publication of the report 4,000,000 by 2000: Preliminary Proposals for Guiding Change, there was direct recognition of problems of air pollution, refuse disposal, sanitary sewage and storm drainage requiring local and metropolitan attention. Further, the report noted the need for "preservation of the balance of nature". These first policy proposals were brief. They were beginning to move ahead of community attitudes.

When Selecting Policies for Metropolitan Growth appeared in January 1967 only months before the Metropolitan Council was created, the highly related aspects of natural resource quality, pollution of resources, and construction of utilities had been put together in policy form. In legislative dialog these were still separate.

This 1967 session of the legislature was both a new major step in dealing with the sewer problem by then nearly a decade old--turn it over to a generalist agency, the Metropolitan Council--but also a plateau in viewing the natural environment. Ian McHarg was proposed to be retained to assist in the first metropolitan-wide ecological study in the nation. This year saw the creation of the State Pollution Control Agency to begin a more unified approach at the state level to residuals management.¹²

The planning and development strategy of the new Metropolitan Council began in the fall of 1967 with an integrated three-part concept of "physical development structure" (carried over from the predecessor Metropolitan Planning Commission), "natural resources management" and "waste management". The latter two were treated together as environmental management.¹³ The term management was used frequently in these early

days of the Council to reflect the shift from the previous planning authority of the MPC to the potential implementation authority of the Metropolitan Council.

The three-part strategy was not fully developed as a policy statement because top priority had to go to individual pieces of legislation, particularly sanitary sewage, solid waste, and open space. Background documents on each of these topics were produced with the assistance of citizen advisory committees.¹⁴ The ecological work of McHarg was used in each study.¹⁵

The first test of the three part strategy came in the fall of 1968 as the shape of the new organizational proposals became clear. As explained more fully in the section on Governance, separate legislation was prepared for sanitary sewers, solid waste and air pollution rather than one integrated piece. Because the pieces, for political and other reasons, were not parallel in organizational design, it would be difficult to put them together later.

The 1969 legislative session was a far greater success than anticipated. Legislation on sewage, solid waste and open space passed. This was to have two consequences. It established two separate functional approaches to elements of waste management, and it forced the Council to assign all available resources to the preparation of mandated functional plans for these new institutions. The years from 1969 to 1971 were largely consumed with activity to refine and extend these plans, to extend the Metropolitan Development Guide into new topics particularly Human Services, and to fight major battles on airports and transit.

Beginning in 1969, a series of acts were passed to protect natural resources through state agency action. These included acts concerning floodplains, shorelands, power plant siting, scenic rivers and more. The Environmental Policy Act and creation of the Environmental Quality Council also served to focus more of this activity at the state level.

In 1971 the staff was reorganized with a new unit called Environmental Planning that encompassed the elements of waste management and natural resource management, but no strategy related to the total or to the two sub-parts was enunciated. Rather work continued on individual functional elements within the new organization.

Also at this time the comprehensive planning unit was strengthened and work began on what was to become the Development Framework and its companion Investment Framework. That culminated in final adoption in 1975 after extensive study, hearings, and community debate.

Summary and Conclusion

What, then, is the status of environmental management in the Twin Cities metropolitan area, focusing on the Metropolitan Council? The Metropolitan Council has a plan called the Metropolitan Development

Guide that contains policy and program statements that are: (1) directives to subordinate commissions for sanitary sewage, transit, and open space; (2) the basis for reviewing and approving or suspending plans of independent commission such as for airports and watersheds; (3) the basis for review of local government plans and mediation of disputes and (4) the basis for A-95 review of all applications for federal programs.

The Council also has a development strategy called the Development Framework, the first chapter of the Metropolitan Development Guide, that sees a process of interaction with functional agencies and local governments to guide development. The Council, by law, presents policy plans and programming guidelines to its three commissions--Waste Control (Sanitary Sewage), Transit, and Parks and Open Space. The commissions prepare programs for Council approval. The transportation policy plan also includes highways, but the program element is not so tightly controlled. The Development Framework also contains a Metropolitan Urban Service Area (MUSA) boundary within which urban services will be made available (see Figure 4).

The material from these regional systems would be presented to local governments along with population, employment and other estimates to guide local planning. The local governments--municipalities, counties, school districts--would prepare plans compatible with these regional systems and the MUSA boundary. The local governments would be called upon to expressly address the best location for the urban service line, or the division between urban and rural uses, in their communities. Legislation for mandatory local planning to support this strategy is before the legislature and likely to be passed.

Some of the many implementation measures used to manage this system are described in Chapter II. The Council administers these measures, for the most part, in a low key responsive manner rather than initiating action with those having authority to make the public and private development decisions.

Therefore the Council can directly control sanitary sewers and treatment plants through its subordinate commission. It cannot directly control septic tanks, but has proposed further authority for the State Pollution Control Agency in this regard. There is indirect control through the existing local sewer plan review, but it would be greatly strengthened with the proposed mandatory plan legislation. The Council's control of sanitary sewage is its strongest control over residuals, because it controls bonding as well as timing, location, and other aspects of facilities. The one weakness is the ineligibility for 208 water quality funding.

The Council has some indirect control over pollution from run-off by its relation to watershed districts, its review of local plans, and its protection open space guidelines.

The control of solid waste is weaker in that the Council prepares plans but has no ability to initiate solutions. This is discussed more fully in both Chapters II and III. The waste is being disposed of adequately, but a new strategy for recovery is needed and in the making. Operational authority rests with the counties.

Air pollution is weaker still as a direct control. The Council has no authority to implement. It has not pressed for it either because air pollution control is politically thankless however necessary and valuable to the welfare of individuals. Planning funds are not directly available owing to the limitations of legislation and granting agencies. Air pollution is primarily handled by the State Pollution Control Agency and local governments.

Noise is a topic in which the Council would have substantial direct authority around a new major airport should one be built. The PCA and the local governments are the authority in this case. The state has adopted fairly stringent noise standards, but has not yet issued the implementing regulations.

Most of the above authority is quite traditional. It is corrective, applied after the residuals are generated. The Metropolitan Council legally could have great impact on where development occurs and thus prevent some pollution from happening. A step in this direction has been taken with the protection open space responsibility which is purely advisory but says where development should not go, and with the Development Framework.

The other approach of using coordinated programming of investments has never been actively pursued by the Council. On the other hand they may be closer to it than ever before as they combine the Development Framework showing areas to be serviced, the Investment Framework now in process to deal with areas and level of investment, and the program budgeting requirement for all metropolitan agencies that must begin by 1978. The Development Framework itself was not designed in terms of areas to be served based on air or water pollution beyond the issue of availability of services. The Twin Cities is not unique in its reluctance to publicly declare where development may or may not locate for environmental reasons. Rather the approach used under the Airport Zoning Act was to propose environmental performance standards and let development in that could meet those standards. This has been incorporated in the protection open space model ordinances.

The Council is no longer explicitly pursuing the concept of waste management (synonymous with Howe and White's residuals management, or EPA's environmental management) and is now using the term to refer only to sanitary sewage as in federal legislation. There is nothing to prevent such an approach however. Were it to endorse the concept, the agency could do more to implement it than most metropolitan agencies in the country. Probably the most helpful steps to bring about such a change on the part of the Council would be changes in federal legislation to support agencies such as the Council with true waste management funds rather than the functional program funds now available, and for EPA to more actively

integrate its own planning and programming activities and orient them toward such metropolitan agencies.

In addition to the management capacity described above is that of the other metropolitan agencies themselves, the state agencies--particularly the Pollution Control Agency, the Department of Natural Resources, and the Environmental Quality Council--and the local governments. All these others are not described because they operate without formal agreements with the Metropolitan Council except as described in Chapter II. If this additional authority were coordinated more formally by the Metropolitan Council, the impact would be greater still.

The final thought that emerges from this history is that the process of environmental management is an evolving one. In terms of legal authority, the line has continued to rise. In terms of guiding concepts it has advanced and wavered, at times being more integrative, at other times as now more fragmented. The changes in concept have been a product of people within the agencies and crises or pressures within the community. Likewise the last aspect of management, the administrative mechanism itself has been one of response to others rather than leadership. Perhaps that is a further reflection of the political and philosophical setting in which the Council was born, a state that knew the Populist movement and that until recently had avoided concentrating any significant authority in the hands of elected or appointed executives. Whatever these weaknesses, however, the system works as well as the general community wishes, and that is at a little higher level of integration than in most other metropolitan regions.

Footnotes

¹Citizens League, Report and Recommendations on Twin Cities Metropolitan Area Sewerage Needs, (Minneapolis: Citizens League, 1967) and Robert L. Lines, "Air Pollution Control in the City of Minneapolis", Plan "B" Paper submitted to the University of Minnesota School of Public Health, 1973.

²Metropolitan Drainage Commission (MSA 445.20) established in 1927 and the Minneapolis-St. Paul Sanitary District (MSA 445.01) established in 1933. Both of those statutes were repealed in 1973 with the establishment of the Metropolitan Sewer Board, a part of Metropolitan Governance, codified as MSA 473.501-549.

³Citizens League, Report and Recommendations on Twin Cities Metropolitan Area Sewerage Needs, (Minneapolis: Citizens League, 1965), p. 28.

⁴Metropolitan Planning Commission, Metropolitan Water Study, Part II, (St. Paul: Metropolitan Planning Commission, July 1960).

⁵The Metropolitan Planning Commission MSA 473.01.

⁶MSA 115.02 established in 1945 has now become the Pollution Control Agency.

⁷Metropolitan Planning Commission, Water Study and Metropolitan Planning Commission, Metropolitan Sewerage Study, (St. Paul: Metropolitan Planning Commission, August 1960).

⁸Citizens League, Sewerage Needs, p. 31.

⁹Citizens League, Metropolitan Area Refuse Collection Disposal, (Minneapolis: Citizens League, 1966).

¹⁰The North Suburban Sanitary District was established by the state legislature in 1961. In 1967 three southern suburbs established the BEB district under the Joint Powers Act. 1968 saw the establishment of WONE by Joint Powers agreement between suburbs east of St. Paul. The southwestern suburbs established by Joint Powers also the SWSD in 1969.

¹¹League of Women Voters of Minnesota, A Metropolitan Sanitary District in '67?, (St. Paul: League of Women Voters of Minnesota, 1966) and Summary and Pollution Abatement Recommendations for the Upper Mississippi River and Marjio Tributaries, (Washington, D.C.: Federal Water Pollution Control Administration, 1967).

¹²MSA 116.

¹³Metropolitan Council, background material for Seminar, November 3 and 4, 1967.

¹⁴Metropolitan Council, Metropolitan Sewer Plan: A Preliminary Concept Plan, (St. Paul: Metropolitan Council, July 1, 1968); Metropolitan Council, Metropolitan Sewerage Plan, (St. Paul: Metropolitan Council, January 30, 1969); Metropolitan Council, Recommendations for Solid Waste Disposal in the Twin Cities Area, Report of the Solid Waste Disposal Advisory Committee to the Metropolitan Council, (St. Paul: Metropolitan Council, November 14, 1968); Metropolitan Council, A Proposal to Save Open Space in the Metropolitan Area, (St. Paul: Metropolitan Council, March 1969).

¹⁵Wallace, McHarg, Roberts and Todd Associates, An Ecological Study of the Twin Cities Metropolitan Area, (St. Paul: Metropolitan Council, 1969).

CHAPTER II
REGIONAL ENVIRONMENTAL MANAGEMENT: IMPLEMENTATION
AND INSTITUTIONAL STRATEGY IN THE TWIN CITIES
METROPOLITAN AREA

by
Ian Traquair Ball

TABLE OF CONTENTS

	Page
PART ONE: INTRODUCTION	1
PART TWO: IMPLEMENTATION MECHANISMS	6
Metropolitan Development Guide adoption	6
Policy plan adoption	11
Operating budget approval	14
Capital improvement program approval	16
Development program - capital improvement budget approval	23
Plans and specifications review	33
Metropolitan sewer benefit determination	37
Sewer charge review	40
Interceptor acquisition approval	47
Sewer service boundary delineation	52
Peripheral area service approval	56
Comprehensive sewer plan review	62
Orderly annexation review	74
County solid waste report approval	78
Solid waste facility permit approval	80
Air quality permit review	83
A-95 review	85
Comprehensive plan review	87
Independent commission, board, and agency plan review	90
Metropolitan significance review and suspension	96
Protection open space standards adoption	101
Environmental impact review	104
Critical area designation initiation	108
Conclusion	113
PART THREE: INSTITUTIONAL STRATEGY	116

LIST OF FIGURES

Sewered Area - 1973	7-a
Service Areas to Year 2000	54-a

PART ONE: INTRODUCTION

There is a wide variety of Federal environmental legislation that affects or requires area-wide planning and implementation decisions to address environmental problems. The Legislative mandates contained in the Federal Water Pollution Control Act Amendments of 1972, the Clean Air Act Amendments of 1970, the Solid Waste Disposal Act of 1965, as amended by the Resource Recovery Act of 1970, and the Noise Control Act of 1972 call for the delegation of authority to state or designated regional and local agencies to develop and implement the requirements of Federal environmental quality regulatory programs. In addition, there is a host of individual state legislation which establishes a regional agency framework to address environmental issues of particular state concern.

Initially created in the face of severe pollution problems resulting from inadequate local sewer systems and private septic tank facilities, the Metropolitan Council has since responded to a broad range of development management and environmental quality concerns. This has involved establishing a regional policy framework which articulates, among other things, environmental issues arising from the course of regional growth and development, and includes the selection of environmental goals compatible with other metropolitan-wide concerns. The Council has long argues for a planning process that emphasized that the most efficient use be made of the region's natural resources: which resources are to be consumed and which are to be preserved for today's and future populations. By deciding which natural resources should be protected, the pattern for urbanization can be determined.

This particular study sets out to describe and analyze how the Council has gone about implementing its regional environmental policy decisions, i.e., the Council's strategy for regional environmental management as it has evolved since 1967 through 1975 in the Twin Cities Metropolitan area. To do this, the study examines the array of implementation tools used by the Council, the ties between the implementation tools and Council policy statements, linkages between the implementation tools themselves, and the relationship of this array of tools to the broader institutional structure of which the Metropolitan Council is a part. Since regional environmental management in the Twin Cities Metropolitan area extends beyond issue identification and policy formulation, it embraces the spectrum of program decisions made either by the Council itself or on its behalf by other public agencies. Thus, regional environmental management does not mean a focus upon the Metropolitan Council to the exclusion of other units of government, at township, county, municipal, state, or special district levels. The Council operates in direct and indirect ways; some of its environmental goals are shared and some others are not; some of its policy decisions are implemented directly while others may operate in advisory fashion upon other public agencies with the power to act. The discussion on the following pages will attempt to show this variation in detail, keeping in mind that the Council must be understood as a part of a larger complex of Federal, state, special district, and local government organizations.

Implementation of Regional Policy

Development of regional environmental policy is a common function among regional planning and coordinating agencies. However broad or constrained, however long-range or short range over time, the identification of issues and the formulation of policy to decide those issues is a customary agency practice, and the expression of that policy may appear in the form of a plan map, an evaluative matrix, a policy text, or other form. A major challenge to the regional agency is the translation of that policy into program decisions and operations. This is particularly a challenge for the Metropolitan Council since its legislative mandate thrusts in into the midst of many private and public programs. Confronted with the problem of coordinating a diverse assortment of funding, maintenance, replacement and service decisions, the Council has an obvious need for management tools which can relate one or more operating functions to regional policy with the assurance of consistent interpretations and results over time.

As environmental policy grows more complex and comprehensive in scope, the need for implementation mechanisms becomes even more acute. For example, a recent study for the Environmental Protection Agency on residuals management strategies by Howe and White noted the need for a framework which provides a systematic approach to the identification, evaluation, and selection of strategies to overcome the problems attendant to residuals generation and discharge.¹ The residuals management strategy is defined as "a combination of physical methods, implementation measures, and institutional arrangements adopted for the purpose of reducing or eliminating the discharge of residuals into the environment and/or reducing or eliminating their impact if discharged -- i.e., achieving environmental quality objectives."² The choice of implementation methods and the institutional strategy to operate them becomes more difficult as the complexity of environmental goals increases, drawing upon the exceedingly limited experience and evaluation of innovative and alternative organizational forms which might be applicable.

Implementation tools may be adaptable for some environmental purposes but not for others. The lack of consistent experience with a uniform array of environmental management tools throughout the country hinders the formulation of uniform strategy for implementing Federal environmental legislation. Indeed, it has only been in the last few years that policy-makers and managers have become aware of the array of potentially useful tools for their purposes. For example, a recent ASPD report identified at least 55 different techniques that can serve varying aspects of development control or growth management.³ These tools, grouped into 18 different categories, can serve such widely varying environmental purposes as sewage treatment and interim protection of agricultural land. Howe and White, in their report cited earlier, suggest a similar array of implementation measures, grouped roughly into four categories of regulatory, economic, administrative, and information provision nature.

With this complexity and array in mind, then, this study gives special attention to the choice of implementation tools developed and

employed between the Metropolitan Council and other organizations to implement regional environmental management policy. The terms management, coordination, and implementation are used in a complementary sense. They refer to the activities of the Council members themselves or the administrative staff that relate a proposed program decision to a policy statement, or program effects to other program effects, or expression of approval, disapproval, or other evaluative direction to the program proponent or user. Management or implementation tools incorporated in this study are those which have been formally initiated or adopted by the Council for use by itself or by other agencies. Thus the Council, for example, employs the authority to approve or disapprove sanitary landfill permits in the seven-county area and has also initiated the process for Critical Area designation of the Mississippi River by the Governor of Minnesota.

This study identified twenty-three separate management and coordination tools initiated or adopted by the Metropolitan Council since 1967, listed as follows:

1. Metropolitan Development Guide adoption
2. Policy plan adoption
3. Operating budget approval
4. Capital improvement program approval
5. Development program and capital improvement budget approval
6. Plans and specifications review
7. Metropolitan sewer benefit determination
8. Sewer charge review
9. Interceptor acquisition approval
10. Sewer service boundary delineation
11. Peripheral area service approval
12. Comprehensive sewer plan review
13. Orderly annexation review
14. County solid waste report approval
15. Solid waste facility permit approval
16. Air quality permit review
17. A-95 review
18. Comprehensive plan review
19. Independent commission, board, and agency plan review
20. Metropolitan significance review and suspension
21. Protection open space standards adoption
22. Environmental impact review
23. Critical area designation initiation

The above mechanisms are described in the material that follows in several forms, according to the availability of data and the extent of use by the Council since 1967. In some cases, a mechanism is described as it was originally employed and then changed to eliminate problems or to adapt to changing external conditions. In other cases, where the mechanism has not changed, it is described in its original form. Where information exists providing some analysis of the effect of its use, such information has been incorporated in the study where appropriate.

Stated ties between implementation instruments and policy statements are discussed in terms of the instrument used to carry out that policy, and not the effectiveness or environmental quality value of the policy itself. The focus is on the manner in which the Council is able to relate a program decision back to a derivative environmental policy framework. In some instances of Council action, the tie is unstated but is informally presumed by the Council to exist, and there is no need to identify the policy section of the Metropolitan Development Guide as the guiding source of the program decision. In other cases, there is no ascertainable relationship; generally, such instances occur when an implementation tool is applied to exceptional circumstances outside the adopted body of Council policy. Since the Metropolitan Council's Policy Plans and Metropolitan Development Guide play such a dominant role in the Council's implementation and management decisions, providing the nexus between various policy and program decisions, they have been incorporated in the list of tools for this study.

Ties between implementation tools and institutional structure are discussed principally in terms of state law, assigning the authority for one or more tools to one or more public agencies. In addition, administrative rules and procedures developed by the Council staff since 1967, particularly those revised in 1975, are discussed as they relate to Council coordination of its own implementation efforts, as well as those of other public agencies. Institutional structure is discussed in detail in the last part of this study.

And finally, formal linkages among the tools as specified in state laws, Council regulations, and established procedure of other agencies are also noted, where there is clear, written evidence of such a relationship. The principal focus here is the extent to which use of one implementation tool, such as a comprehensive plan review, binds the use of another implementation tool such as local sewer plan approval or capital program approval.

Terms

A brief explanation of the terms used in this study is necessary. The Metropolitan Council is referred to in the alternative as the "Council". The Metropolitan Sewer Board was established when the Metropolitan Sewer Act was passed in 1969; in 1975, its name was changed to the Metropolitan Waste Control Commission, and these names are used interchangeably, either as the Sewer Board or the Commission. The Minnesota Pollution Control Agency is a State agency, and is referred to in abbreviated form as either the MPCA or the PCA. All legislative citations refer to the 1975 recodification of Minnesota statutes referring to regional government in the Metropolitan Area; where a citation refers to a section of a statute which has been amended, the original law is cited.

Footnotes

¹Howe, Richard S., and Nicholas L. White, Development of Residuals Management Strategies, EPA R-803313-01-1, June, 1975.

²Ibid., p. 10.

³ Gleeson, Michael E., Ian Traquair Ball, Stephen P. Chinn, Robert C. Einsweiler, Robert H. Freilich, and Patrick Meagher, Urban Growth Management Systems: An Evaluation of Policy-Related Research, American Society of Planning Officials, 1975, PAS Report Nos. 309, 310, p. 8.

PART TWO: IMPLEMENTATION MECHANISMS

METROPOLITAN DEVELOPMENT GUIDE

By law, the Council may express and organize its planning and coordinating activity through the Metropolitan Development Guide. By legislation, the Guide is described as follows:¹

The metropolitan council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for an orderly and economic development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.

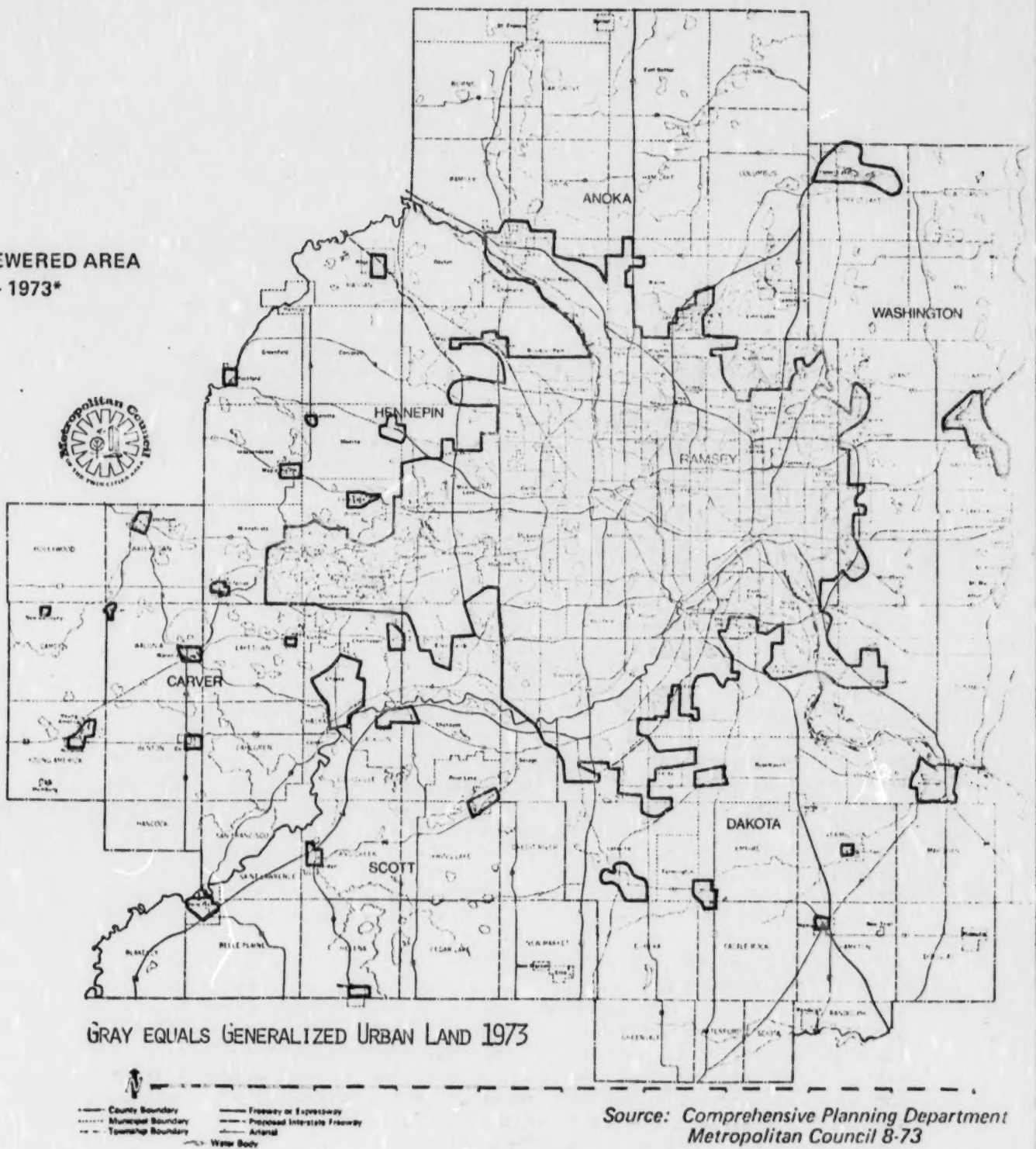
As the introductory chapter to the Development Guide has explained,² the Guide's comprehensive nature is basic to the documents's central purpose. The increasingly vast and complex problems of the Metropolitan Area call for policies and programs that recognize the social and economic, as well as the strictly physical, aspects of Area development. In response to these varied needs, the Council has adopted Guide chapters which address such major area problems as the supply of low-and-moderate income housing, a comprehensive transportation system for the region, the balanced usage of the area's land and water resources, preservation of the region's recreation and open space areas, and a pollution-free environment for area residents. Since the Guide recognizes that urban problems are often interrelated and that planning should provide for desired social goals for a metropolitan population as well as for social effects resulting from physical development decisions, the Council can weigh its decisions on social programs and services against those decisions concerning highways, sewers, and other physical facilities, to ensure that its planning and coordinating framework embraces a broader concern of human needs.

As a basis for public action, therefore, the Council expects the Guide to set forth goals toward which the metropolitan community should direct its planning and development efforts. Each Guide chapter is organized to contain a series of policies intended for use as guidelines for decision-makers throughout the Metropolitan Area, and includes a system plan that describes what the Metropolitan Area should be like in the future. A separate section provides for a development program that specifies the steps the Council expects to follow to achieve its long-range objectives, complementing those policies which address the

11-7-a

Figure 2

SEWERED AREA
- 1973*



*The black outline indicates areas with public sewer service. Approximately 1,786,000 live within the sewered areas.

Source: Comprehensive Planning Department
Metropolitan Council 8-73

Area Served: 562 Square Miles

responsibilities of county, municipal, and state governments in implementing the regional policy framework.

The major chapters of the Guide directly concerned with environmental quality are outlined below. Other topical chapters adopted by the Council include airports, transportation, housing, recreation open space, health, and criminal justice.

Sanitary Sewers

The Sanitary Sewers chapter, adopted by the Council in January, 1970,³ was the first Metropolitan Development Guide chapter. It was preceded by the Metropolitan Sewerage Plan,⁴ dated January 30, 1969, which was the Council's initial effort to establish a policy plan to correct the area's increasing water pollution problems and to provide for the best long-range uses of its rivers and lakes.

In adopting the Guide chapter, the Council expected the Metropolitan Sewer Board (now called the Metropolitan Waste Control Commission) to use the chapter to design, construct, and operate the metropolitan sewer system and to review the comprehensive sewer plan of each local government unit in the Metropolitan Area. The Council also intended to use the sewer chapter and other relevant parts of the Development Guide in reviewing referrals from government units, including their comprehensive plans, and hoped that private decision makers would use the Guide for specific planning and development proposals.⁵

Expanding upon the 1969 document, the Sanitary Sewers chapter set forth policies, a system plan, and a development program.

Part I contained long-range policies as general guidelines for the proper planning, design, and operation of a sewer system in the Metropolitan Area designed to correct the area's water pollution problems, provide the best long-range uses of its rivers and lakes, and guide development. The long-range policies focused on the following topics: multiple use of water resources, water quality control, on-lot sewage disposal, interim treatment works, priorities for extending sewers, orderly urban growth, governmental capability to serve urban development, protection of land that should not be developed, service area boundaries, adequate sizing of facilities for service areas, and environmental compatibility. It was expected that a wide range of sewage and water-related problems could be corrected by the adoption of these policies and their subsequent implementation by the Council, the Metropolitan Sewer Board, local government units, and private developers.

Part II contained the system plan for the metropolitan sewer system designed for the year 2000. It included a description of the general location of interceptors and treatment works and a description of alternative interceptor routes and treatment plant locations under study. As new information became available, amendments would be made to the system

plan and policies. Peripheral region needs and local collection system considerations were also included in Part II.

Part III, program, delineated the broad, long-range and short-range objectives to be achieved by the Metropolitan Sewer Plan, broad enough to enable the Sewer Board and local governments to develop suitable timetables for the acquisition and betterment of metropolitan disposal system facilities and of local sewerage facilities. Long-range objectives included problems of river water quality, on-lot sewerage facilities, and lake water quality, while short-range objectives focused on sewer service area delineation, facility acquisition and construction completion, cost allocation, and various flow augmentation, sludge disposal, and other water quality studies.

Solid Waste Management

When the Solid Waste Disposal Act⁶ was passed in 1969, the Council was required to adopt a comprehensive plan for the disposal of solid waste and management and disposal of hazardous waste in the Metropolitan Area. The plan was to include goals and policies for solid waste disposal, criteria for solid waste disposal sites, general location and capacities of needed sites and facilities, projections of disposal capacities required, regulations for the operation of disposal sites and facilities, disposal techniques which might be used, and types of solid waste to be disposed at each site or facility. The criteria and regulations were required to be consistent with regulations adopted by the Minnesota Pollution Control Agency (MPCA).

To meet these requirements, the Council adopted the Solid Waste Management chapter, in March, 1970, organized into three parts.⁷ Part I contained the policies that served as guidelines for planning and operating a solid waste disposal system in the Metropolitan Area, addressing the issues of disposal methods, accessibility to the urban area, environmental pollution, compatibility with neighboring uses, reuse and maintenance of sanitary landfill sites, and transfer stations. Because of expected rapid changes in recycling technology, the Guide chapter system plan was limited to a 10-year period. This system plan, which provided for solid waste generation and equivalent sanitary landfill capacities, existing and new sanitary landfill sites, and submetropolitan sanitary landfill needs, was to be modified at the end of the decade as more advanced methods came into use. Part III, program, emphasized long-range and short-range objectives, the latter dependent upon cooperative efforts between the Minnesota Pollution Control Agency, the seven Metropolitan Area counties, and the Metropolitan Council.

Protection Open Space

The Parks and Open Space chapter of the Development Guide was adopted on June 25, 1970, and included recreational and protection open

space elements, and was arranged into long-range policy, system plan, and development program components.⁸ The protection open space element emphasized open space as a vital component of an orderly urban environment, serving many irreplaceable functions, with equal status with other land uses rather than as a residual use. This strategy originated from earlier studies for the Council by Ian McHarg, the first metropolitan-wide attempt to deal with the intrinsic suitability of open space.

The Protection Open Space chapter which was adopted by the Council in 1973, superseding the 1970 document, focused on the need for protecting natural resources and recommended steps by which this could be accomplished.

The chapter was divided between a policy plan section and a program section. In addition, it was designed to meet the open space functional plan requirements of the U.S. Department of Housing and Urban Development for certification purposes. The policy plan section included discussion of issues and policies related to water bodies and watercourses, wetlands, groundwater recharge areas, floodplains, erodible slopes, forests and woodlands, soils limiting development, production lands, and lands containing unique or endangered plants and animals. The program section described the implementation responsibilities of the State of Minnesota, Metropolitan Council, counties, municipalities, special districts, and the private sector. Recreation was treated in a separate Guide chapter, and a legislative program was prepared subsequently based upon the 1973 document.

Water Resources

The Water Resources chapter,⁹ adopted by the Council in August, 1973, was intended to ensure proper use and protection of the water resources available in the Metropolitan Area, and meet HUD certification requirements as the water resources plan element of the metropolitan comprehensive plan. Like the Protection Open Space chapter, it was organized in two major sections. The policy plan section contained long-range policies as general guidelines for the proper planning, design, and operation of water supply and surface water drainage systems in the Metropolitan Area. These guidelines were intended to answer the area's increasing water resources problems, provide the best long-range uses of water resources, and guide urban development. A detailed report was to be prepared after adoption of the Guide chapter describing these water resource problems.

The policy plan itself discussed the availability of water resources, including water needs and low-flow augmentation; adequacy of water supply system, including flooding and maintaining groundwater recharge; water quality and environmental protection; and water resources and metropolitan development. The program section briefly outlined long-term and short-term provisions to implement the policy plan, grouped by governmental unit best suited to implement them.

Footnotes

- ¹Laws, 1975, Chapter 13, Section 8.
- ²Metropolitan Council, 1973, Introduction, Metropolitan Development Guide.
- ³Metropolitan Council, 1970, Sanitary Sewers, Metropolitan Development Guide.
- ⁴Metropolitan Council, 1969, Metropolitan Sewerage Plan. See also, Metropolitan Sewer Plan - A Preliminary Concept Plan, July 1, 1968.
- ⁵Sanitary Sewers, supra, p. 2.
- ⁶Solid Waste Disposal Act, Chapter 847, 1969 Session Laws.
- ⁷Metropolitan Council, 1970, Solid Waste Management, Metropolitan Development Guide.
- ⁸Metropolitan Council, Parks and Open Space, 1970; Protection Open Space, 1973; Metropolitan Development Guide.
- ⁹Metropolitan Council, 1973, Water Resources, Metropolitan Development Guide.

POLICY PLAN

In 1974, the Minnesota legislature enacted the Metropolitan Reorganization Act, which included the requirement for the Metropolitan Council to produce and adopt policy plans to direct the programs of the Metropolitan Waste Control Commission and the Metropolitan Transit Commission.¹ These policy plans are a part of the Council's Metropolitan Development Guide, to be followed by the Council and the affected commissions. The plans must substantially conform to all policy statements, purposes, goals, standards, and maps in development guide sections and comprehensive plans as developed and adopted by the Council. In preparing or amending a policy plan, the Council must consult with and make maximum use of the expertise of the affected commission, and each commission in turn must cooperate with the Council.

Policy Plan Guidelines

To the extent appropriate, each policy plan must include the following information:²

- (a) A statement of the needs of the metropolitan area with respect to the functions covered and the objective of the policies to be forwarded by the policy plan;
- (b) A general description of the physical facilities and services to be developed by the commission in performing its functions;
- (c) A statement as to the general location of physical facilities and service areas;
- (d) A general statement of timing and priorities in the development by the commission of those physical facilities and service areas;
- (e) A general statement on the level of public expenditures both capital and operating appropriate to the facilities and a statement of the relationship of the policy plan to other policy plans and chapters of the metropolitan development guide;
- (f) A statement of the relationships to any current local comprehensive plans and any related development programs on file with the council;
- (g) Such additional general information as may be necessary to develop the policy plan or as may be required by the laws relating to the commission and function covered by the policy plan; and
- (h) A general statement relating to future population, employment levels, and land use in the metropolitan area and in the individual local governmental units located therein, including population densities and anticipated rates of change in such densities.

While most of the material required by the policy plan had previously

been incorporated in various chapters of the Development Guide, there were several items which had not. These items included timing or staging criteria as applied to functional programs such as sewers and highways, the relationship to local comprehensive plans and programs, and future population and employment distributions in the Metropolitan Area.³

By late 1975, the Council had prepared and adopted two policy plans, one for the Metropolitan Waste Control Commission and one for the Metropolitan Transit Commission.

Waste Management Policy Plan

The Waste Management Policy Plan Guide chapter adopted September 25, 1975, has three components: an Issues-Objectives section, a System Plan section, and a Procedures section.⁴ It incorporates the policy plan provisions directed to the Metropolitan Waste Control Commission, as well as other guidelines directed to local governments, special districts, and private organizations and individuals.

The central theme of this document is that the sanitary sewer function is an essential function, and provision of Metropolitan sewer facilities must coincide in time, location and magnitude with the Council's overall plan for the Area, known as the Development Framework. Finally, the sewer system must cause minimal disruption to the natural environment with special concern for the rivers and the hundreds of lakes that are unique aspects of the Twin Cities Metropolitan Area.

Accordingly, priorities for allocation of funds and for classification of proposed projects are tied to three prime reasons for developing sewer services and facilities plus a constant need to inspect and monitor the system and the environment impacted by it. The reasons are to protect and promote public health, safety and welfare; to open up new areas for development or redevelopment; and to meet water quality standards.

The Issues, Objectives, and Policies section follows the practice of past Guide chapters of discussing a subject only if there is an existing problem or a strong likelihood of it in the near future. Issues are presented as problems, objectives are broad and long-range in remedy, and policies are action-oriented for immediate implementation.

The first major issue discussed in the chapter deals with sewer-related matters in the Urban Service Area. This includes the existing urban mass, the surrounding rural area scheduled for development to urban density in the Development Framework Guide chapter by the end of the century, and fourteen Freestanding Growth Centers, also considered as part of the Metropolitan Area's present and future urbanized area.

The second major group of issues concerns itself with the waste disposal problems or rural area, where metropolitan sewer service will not be available. The Council accordingly focuses on the use of septic

tank systems and their long-term cumulative impact upon the environment and regional growth patterns.

The third group of issues examines relationships between sewage disposal and environmental quality, and a fourth group deals with timing and priorities for investment in the metropolitan system.

The System Plan section lists projects under monitoring and evaluation, maintenance and improvement of the existing system, opening of new land for development or redevelopment, and meeting water quality standards. Each proposed project's relationship to the policy plan requirements of the 1974 legislation are discussed.

The last section of the Guide, Administrative and Operational Procedures, contains the procedures the Council follows when dealing with sewer associated matters with the Metropolitan Waste Control Commission, and are oriented toward accomplishing the three policy aims stated below:

1. The different steps in the sewer planning and budgeting process have been examined and are presented in a way that shows the intent and relationship of each step to every other step and to the whole process.
2. The respective roles of the Council and the Metropolitan Waste Control Commission are clarified.
3. Important material and findings that the Council will expect the Commission to include in its reports and recommendations to the Council are included as are some specific requests the Council has with respect to programs controlled by the Commission.

These procedures are discussed in more detail in the following pages.

Footnotes

¹See Laws 1975, Chapter 13, Section 9, Sub. 1.

²ibid.

³Council staff memorandum, "What is a Policy Plan?," to the Environmental and Transportation Committee, Metropolitan Council, June, 1974.

⁴Metropolitan Council, 1975, Metropolitan Development Guide/Policy Plan.

OPERATING BUDGET APPROVAL

When the Metropolitan Sewer Act was passed by the legislature in 1969, the act required the Sewer Board to prepare and submit to the Council on or before September 1 of each year, a budget for the estimated receipts and expenditures for that calendar or fiscal year. The Council was given the authority to fix the period for which the budget was prepared, to require appropriations to be itemized, and to approve or disapprove the budget. The Board was prohibited from spending money for any purpose, other than debt service, without an appropriation or in excess of the amount appropriated, and any contract to make such an expenditure was declared unenforceable. However, the issuance of bonds or the receipt of federal or state funds was made a sufficient appropriation of proceeds, or of funds pledged for payment, whether or not specified in a budget. Thus, the Council could issue emergency certificates of indebtedness, spend the proceeds obtained from issuance, and appropriate revenues to repay them, whether or not they were authorized in the budget. The Council was permitted to amend the budget by transferring appropriations between purposes except appropriations of bond proceeds and of money for debt service.

Council Review

The Council has reviewed the operating budget of the Metropolitan Sewer Board for the years 1969 through 1975. In the early stage of Council review, for the years 1969 and 1970, an informal review was made and no official referral entry was noted. Amendments to the adopted operating budget were reviewed formally by the Council, however. In July of 1971, a formal procedure was adopted with the intent of giving adequate appeal and involvement opportunity to local governments, especially in regard to cost allocations to municipalities, i.e., sewer bills.² Detailed substantive guidelines for determination of consistency of the proposed operating budget with the Council's Metropolitan Development Guide or the approved capital improvement program were never developed, however, and consequently Council review has varied substantially from one year to the next as different revenue and expenditure issues arose and as the inclination of the Council to undertake closer budget scrutiny increased or decreased.

For example, when the Council reviewed the Board's proposed operating budget in 1972, staff advised the Council that the budget format generally followed the form developed by the Sewer Board and the Council during consideration of the preceding year's budget. Staff subsequently reviewed the proposed budget as to form, detail and consistency with Council policy, with particular concern given to proposals by the Board relative to deferment of sewer charges, metropolitan benefit, and cost allocation. An explicit policy framework used for the review, however, was never elaborated or brought to formal adoption.

Staff also advised the Council that it had reviewed the Board's revenue and expenditure estimates as to the general assumptions used in formulating the estimates only, and that staff had not attempted to examine the detailed estimates for plant operation because staff was not sufficiently knowledgeable as to the detailed requirements of plant operation and there had not been a sufficient period of operating experience as a basis for making future operation projections.³

1974 Amendment

In 1974, when the Minnesota state legislature reviewed the planning and coordinating role of the Council and the powers that such a role would require vis a vis the Metropolitan Waste Control Commission and the Metropolitan Transit Commission, it concluded that Council review and approval of the commissions' operating budgets was not a significant coordinating and planning mechanism. Instead, the legislature decided to emphasize the preparation of a policy plan by the Council which in turn would guide Commission operating decisions.

Accordingly, the Council's authority to approve or deny the proposed operating budget of the Metropolitan Waste Control Commission was rescinded. There was little opposition to this amendment by the Council itself, indicating the limited usefulness it had experienced with this device to implement its regional policy and system plan decisions.

Footnotes

¹Laws 1969, Chapter 449, Section 10.

²Metropolitan Council, July 8, 1971, "Procedures for Consideration of Sewer Board Operating Budget."

³Memorandum from Robert T. Jorvig, Executive Director, to the Referral Committee, Metropolitan Council, August 18, 1971, "Metropolitan Sewer Board Operating Budget."

CAPITAL IMPROVEMENT PROGRAM APPROVAL

Capital Improvements

Until 1975, the major instrument available for implementing Metropolitan Development Guide policy for sewage waste collection, treatment, and disposal was the capital improvement program of the Metropolitan Waste Control Commission.

The scale of capital improvements in the Metropolitan Area by the Commission is large. The Commission has had a project and expenditure program approved by the Council for every year since 1970 and the amount of money involved has been substantial. In 1974, the Metropolitan Sewer Board's Interceptor System included 450 miles of inter-community sewer lines, carrying a total of 84 billion gallons of waste water facilities to 23 waste water treatment facilities. In 1970, the Council approved approximately \$39 million for Sewer Board capital improvements; in 1975, the Council authorized over \$100 million in capital expenditures to meet Metropolitan Area needs.

Because of the scale of the improvements, their wide distribution over a geographical area of almost 4,000 square miles, the long-term design periods assumed for each project, the large number of local governments, special districts, and private organizations affected by the expenditures, and the far-reaching environmental consequences of the improvement programs, coordination of the multitude of Council decisions and management of Council policy through the mechanism of capital improvement program review and approval has been a complex and demanding process. Programming and financing sewer improvements in a manner consistent with other decisions concerning sewer charges, local comprehensive sewer plan review, plans and specifications review, and sewer service boundary delineation, to name only a few, has posed substantial administrative and coordinative challenge with responsibilities distributed between the Council and the Commission. This organizational split has caused the Council to examine not only the broad policy issues of an individual project but also, in a management context, major issues of preparation responsibility, forms of approval, and content guidelines. These aspects of regional policy management are discussed below.

Program Preparation

When the Metropolitan Sewer Act was passed, the legislature established the Council in the dominant role for planning, programming, and financing metropolitan sewage system facilities for the Metropolitan Area, with the Metropolitan Sewer Board as the agent to administer the construction and operation of the program improvements as described below:¹

"COMPREHENSIVE PLAN Subdivision I. COUNCIL PLAN AND PROGRAM.
The Metropolitan Council shall prepare and by resolution adopt a

comprehensive plan for the collection, treatment, and disposal of all sewage in the Metropolitan Area for such period as the Council deems proper and reasonable; and, when adopted, such plan shall be followed in the Metropolitan Area. In developing the plan the Council shall consider the preservation and best and most economical use of water and other natural resources in the Metropolitan Area; and preservation, use, and potential for use of the lands adjoining waters of the state to be used for sewage disposal. The plan shall include the general location of needed interceptors and treatment works, a long-range capital improvements program, and such other details as the Council shall deem appropriate. The construction of any new interceptors or treatment works by the sewer service board or any part of a disposal system by a local government unit, or the substantial alteration or improvement of any existing interceptor, treatment works or disposal system, shall be consistent with the Council's comprehensive plan. Such plan may be revised as often as the Council deems necessary. [Underlining added.]

Although the Metropolitan Council was clearly given the responsibility for preparing the 1969 capital improvements program for the Metropolitan Sewer Board, it chose not to take that initiative, preferring to limit itself to a role that responded to the proposals of the Sewer Board. Instead, the Council gave priority to the tasks of appointment of Board members, preparation of a plan, local sewer plan approval, service area delineation, cost allocation, interceptor and plant acquisition, and budget approval.² Capital programming was not considered to be a major issue at the time.

As a result, the Sewer Board rather than the Council was confronted with the need to undertake the planning and preliminary engineering studies that were necessary to develop individual project proposals. When the first program was submitted to the Council for review, in 1970, that referral set the pattern which eventually resulted in the transfer of that preparation responsibility to the Commission with the passage of the Metropolitan Reorganization Act in 1974.

In 1971, the Council approved a set of procedures for consideration of Sewer Board operating budget and capital improvement proposals, in which it requested the Sewer Board to prepare a long-range CIP for review and inclusion in the Council's comprehensive plan. The procedure also established a formal hearing and meeting process for Council and Sewer Board members to meet with local governments to receive their comment on the proposed program.³

The delegation of this responsibility presumed that adequate direction was available to the Sewer Board through the adopted Sanitary Sewers chapter of the Metropolitan Development Guide, and furthermore that there was a firm commitment and understanding on the part of the Sewer Board and its staff to implementing the policies of the Guide chapter. However, when confronted with these general policy guidelines, Sewer Board staff

had to use their own discretion and interpretation to develop more specific project plans. Cast in the more restrictive mold of their legislatively mandated responsibilities, it was unsurprising that these interpretations were occasionally at variance with broader Council concerns. And although the Council eventually recognized that preparation of a capital improvement program should be preceded by preliminary studies and feasibility reports, the Council preferred to leave this responsibility with the Sewer Board rather than assume it directly.⁴

By 1973, however, there was sufficient concern on the part of the Council over the difficulty of receiving a capital improvement program proposal that considered other metropolitan development and environmental needs, as well as non-structural alternatives to water pollution (which were outside the legislative jurisdiction of the Sewer Board), that the Council decided to develop its own project proposals. Even so, it still had to rely heavily upon the technical expertise and study data of the Sewer Board. The Council was concerned about the need to integrate different functional expenditures into a metropolitan capital improvement program, for such functions as parks, highways, sewers, airports, and housing, in such a way that the development and environmental impact, fiscal capability, and social objectives of each project could be considered together across all functions. Accordingly, it advised the Sewer Board that it would prepare the 1974-1978 Capital Improvement Program and Budget, but requested the Sewer Board to prepare a technical report on proposed projects for that period.⁵

The effect of this division was to create two documents, one proposed by the Sewer Board and one proposed by the Council, with the latter relying heavily upon the first for technical information. It also tended to limit staff collaboration between the two agencies, as each staff tended to work on behalf of its own document and its own definition of needs and future development trends.

When the Metropolitan Reorganization Act was passed in 1974, responsibility for program preparation was given to the Commission, which was required to submit a Development Program to the Council for review and approval.

Program Approval

In the absence of detailed information about the construction projects proposed by the Sewer Board, the Council evolved a review process in 1971 which represented a range in degree of project approval. Using this arrangement, the Council could defer decisions on some projects in their entirety while expressing qualified approval for others. Approval had four aspects, described by the Council as follows:⁶

1. Approval of a project, with or without conditions or comment, is in concept only and does not imply approval of any estimated costs or specific locations or routings of new

facilities.

2. Conditional approval of a project presumes that the Sewer Board will resubmit a report to the Council that would satisfy the original condition.
3. Approval of a project in concept constitutes consent of the Council to apply for federal funds. Before any funds may be accepted, the project must be certified as consistent with the Metropolitan Sewer Plan.
4. Approval of a project without conditions or upon satisfaction of a condition constitutes certification that the project is consistent with the sewer plan.

Subsequent experience with this review process indicated that in a number of ways it served to hamper coordination and policy management efforts rather than expedite them. For example, it was unclear in the referral action exactly what did receive Council approval; this ambiguity caused the Sewer Board some confusion in its attempt to carry out the approved program. Since all project approvals did carry a cost estimate, monies were allocated by the Council to the projects even with its qualifying condition of additional final review. Additionally, there were occasions when Council action seemed inconsistent when it authorized the Sewer Board to apply for federal or state funds but reserved judgement as to whether it would permit the Sewer Board to accept such funds, if granted. The referral process also seemed to prolong project review unnecessarily by an apparent endless series of approval steps. In the 1971 CIP review, for example, the Council's Referral Committee indicated where it might undertake additional review of a project in the future that it had already recommended for approval:⁷

The Council should understand that each approval project will come before the Council for additional actions. In some cases these additional actions will be handled on the pro forma calendar. These subsequent review occasions are or might be:

- A. Federal Project notification and review procedure certification.
- B. Interim action initiated by the Sewer Board to establish a routing or location before preparation of final plans and specifications.
- C. Approval of final plans and specifications.
- D. Sale of Bonds to finance the program.

An example of such conditional approval is the Rosemount Interceptor sewer facility. The Council's final approval comment stated:⁸

The Committee approves of this project because of a pressing need to protect public health and natural resources in Rosemount. However, it has reservations that such service could jeopardize the goal of orderly development with a full range of urban services. Approval is therefore conditioned on:

1. Enactment by the Sewer Board of "Rules and Regulations for the Operation and Use of the Metropolitan Disposal System" as required by the policy adopted by the Council on May 13, 1971. The adoption of these rules and regulations would provide the Sewer Board with the tools to prevent undesirable urban growth that might otherwise result from the provision of this interceptor.
2. The Sewer Board should submit to the Council an acceptable report specifically delineating the boundary of the service area of this interceptor particularly as it relates to Apple Valley.

Thus, although the Council was not sure which areas of the cities of Rosemount and Apple Valley would be served by the facility, nor how the Sewer Board would apply its regulations to prevent undesirable growth, and although it did not give specific directions to the Board on how to define the service area or check premature sprawl, it nevertheless committed itself to the sewer project.

The ambiguity in this approval process and the complexity of following through on all the various conditions attached to the several stages of approval eventually caused concern among Council members, and in 1972, Council staff advised Sewer Board staff as follows:⁹

There is considerable concern that certain projects are proceeding into the plans and specification stage without sufficient preliminary engineering information and estimated construction costs. This information may be available to Sewer Board personnel but has not been gathered together in a report form and submitted to Council staff. It is requested that preliminary engineering reports and cost estimates be submitted on the various projects so we may be able to review these proposals before the Sewer Board proceeds with plans and specifications.

Council staff also concluded that approval procedures should be revised to provide for approvals of plans and specifications at or before submission to the Minnesota Pollution Control Agency for federal grant authorization. This would ensure concurrence by both the Council and Sewer Board prior to commitments for federal grants on the project. Without such a step, it was difficult for either the Council or Sewer Board to make changes after federal grants had been authorized without causing substantial delays in the installation and necessary services.¹⁰

Again in 1973, the Council chairman advised the Sewer Board that a feasibility study for each capital improvements project should be submitted to the Council for review and approval prior to development of detailed plans and specifications regardless of whether the improvement was specifically "approved in concept" in a previous year CIP or was a new proposal to be included under an existing project "approved in concept" in a previous CIP.¹¹

In 1975, when the Council reviewed the Waste Control Commission's 1975 Capital Budget, it still found it necessary to attach conditions of review of feasibility studies and grant application certification before final approval would be given.

Format

Although the Council has been engaged in capital improvement program review since 1969, it did not adopt detailed content or format guidelines for the program until 1975, when the law was changed and responsibility for program preparation was given to the Commission. When the Metropolitan Sewer Board submitted its Capital Improvement Plan to the Council in early 1970, Council staff responded commenting on the kind of information it needed to undertake a complete review of the proposed projects. The request for information included acquisition of existing facilities, present debt of the existing system, total fiscal need estimate for the metropolitan system, priorities, revenue, location, estimated costs, financing mechanisms, and Development Guide relationships.¹² The proposed program was subsequently approved by the Council, with some changes, on April 23, 1970, and without mention of the need for such guidelines.

By 1972, the Council and Sewer Board established two categories of expenditures: annual capital budgets, and a five-year capital improvement program. The annual capital budget was included in the capital improvement program and provided a more detailed statement of the approved expenditures of the Board for preliminary engineering and economic investigation and planning, detailed engineering, and project construction and indirect costs, as well as revenues from unexpended balances, investment earnings, federal and state grants, and bond proceeds. This format was continued in use through 1975.

Footnotes

¹Laws 1969, Chapter 449, Section 6.

²Council Staff Memorandum to the Metropolitan Council, June 3, 1969, "Summary of Actions Required by the Council to Implement the Metropolitan Sewer Bill."

³Metropolitan Council, July 8, 1971, "Procedures for Consideration of Sewer Board Operating Budget and Capital Improvements Program."

⁴Letter from James Hetland, Chairman, Metropolitan Council, to Milton Honsey, Chairman, Metropolitan Sewer Board, April 30, 1970, "Metropolitan Sewer Board's Capital Improvement Projects."

⁵Letter from Albert Hofstede, Chairman, Metropolitan Council, to Milton Honsey, January 24, 1973.

⁶Metropolitan Council, May 27, 1971, Report of the Referral Committee, "Proposed Capital Improvements Program - Year 1971," p. 2.

⁷Ibid., p. 2.

⁸Ibid., p. 6.

⁹Memorandum from Robert Jorvig to Richard Dougherty, Chief Administrator, Metropolitan Sewer Board, March 20, 1972, "Preliminary Engineering Reports and Costs Estimates for Various Proposed Projects."

¹⁰Memorandum from Robert Jorvig to Frank Lamm, Director, Environmental Planning, January 29, 1973, "Procedures for Review of Sewer Board Projects, Extensions of the Metropolitan System and Having the Sewer Board Handle All Referrals Directly to the Council."

¹¹Letter from John Boland, Chairman, Metropolitan Council, to Milton Honsey, October 25, 1973, "MWWTP Modification, Project 71-30; Metro STP Modifications, Projects 71-31."

¹²Memorandum from Robert Jorvig to Richard Dougherty, March 18, 1970, "Capital Improvements Plan."

DEVELOPMENT PROGRAM - CAPITAL IMPROVEMENT BUDGET APPROVAL

Development Program

When the Metropolitan Council Act was amended in 1974, and a more uniform set of relationships prescribed between the Council and the Metropolitan Waste Control Commission and the Metropolitan Transit Commission, the Development Program became the principal instrument for describing proposed projects of the commissions, including costs and construction schedules.¹ Each Commission was required to prepare a Development Program, submit it to the Council for review and approval, and amend the proposed program as the Council might require.

Because the Council review period was limited to a ninety day maximum, and because of the referral problems experienced by the Council, described earlier, when it reviewed the Sewer Board's capital improvement programs and budget, Council staff developed a set of procedural guidelines which were adopted as part of the Waste Management Development Guide/Policy Plan in 1975. The guidelines were aimed at reducing the numerous piecemeal review and approval steps used by the Council for individual projects, improved specification of information needed to undertake Council review, and better coordination with other Council implementation mechanisms, such as local sewer plan review and plans and specifications review.

The procedural guidelines, which were intended to apply to the 1976 Development Program submitted by the Waste Control Commission, are reprinted below. In reading the guidelines, the following should be noted.

First, considerable emphasis is placed on conformance of the Development Program with the adopted Council Policy Plan. The procedures specify that the Council shall not approve a Development Program which is not in conformance with the adopted Policy Plan, nor may the Commission initiate action inconsistent with the Council approved program and Capital Improvement Budget.

Second, the initiative for amendment of the program lies with the Commission rather than the Council, although amendments must be approved by the Council. Ample opportunity is given for various parties to propose amendments to the Commission.

Third, the guidelines for Development Program content require substantial completion of preliminary feasibility studies and other initial investigatory phases. Such studies may be funded out of the approved Capital Budget but no project will receive serious consideration if there is insufficient information to describe its function and, in particular, its effect upon other Council policies relating to user charges, environmental impact, housing, parks, etc.

Finally, emphasis is given to review of the Development Program

against other Council decisions concerning sewer plans of local governments.

Capital Improvement Budget

The Council also adopted procedural guidelines for the Capital Improvement Budget of the Development Program, the expenditures anticipated in the first year of the program. While the Development Program established the list of projects approved by the Council for Commission construction, the Capital Improvement Budget approval released the funds necessary to initiate project construction.

Approval of the Capital Budget allowed the Council to focus on several concerns in particular. First, it permitted the Council to verify, by simultaneous review of project plans and specifications, that the project to be constructed conformed to the description and conditions given at the time of Development Program approval. In a real sense, this was the last verification check. Second, it allowed the Council to consolidate two reviews into one, by requiring plans and specifications to be submitted with the proposed Capital Budget. And third, it gave the Council a more accurate and immediate forecast of the fiscal impact of the proposed construction, with opportunity for revision, if necessary.

The Capital Improvement Budget procedures follow the procedures for the Development Program below.

"MCP 3 Development Program

General Discussion

The Metropolitan Reorganization Act of 1974 requires the Metropolitan Waste Control Commission to prepare a Development Program that indicates the program elements to be performed by the Commission in implementing the Council's policy plan. All detailed technical planning, engineering, financing, scheduling and other information necessary to implement the policy plan during the planning period are to be described in the Development Program. Unless a longer period is specifically prescribed by the Council, the program shall cover a five year period. The first Program shall be prepared by the Commission as soon as possible after Policy Plan adoption, with the initial review and suggested revisions submitted by the Commission to the Council within two years following the Council's approval of the first Development Program.

Once the Council has received the Development Program from the Commission, Council review and action shall be completed within 90 days. The Council shall review submitted Development Programs and suggested revisions thereto to determine their consistency with the adopted policy plan. The Council may approve or disapprove the Development Program in whole or in

part. Those portions of the Development Program which are disapproved by the Council must be revised by the Commission and then resubmitted to the Council.

A. Handling Procedures

1. The Development Program shall be submitted to the Council on or before March 1 of the year preceding its effective date. The Referral Administrator will acknowledge receipt, notify local government units, and distribute the program to planning staff for review. Prior to submission to the Council, the Commission should solicit appropriate local governmental unit and citizen participation in the preparation of the development program. The Commission shall adopt appropriate procedures to provide for the participation of all local governmental units and other interested persons in the preparation of its proposed development program.
2. The Chairman shall designate an appropriate Council committee to consider the Development Program. Council staff shall analyze the program for consistency with the adopted policy plan for the Commission, and prepare a report containing recommendations for action, for review by the committee.
3. The Council may hold a public hearing to consider the program and comments thereon on its own initiative or on the request of the submitting Commission. Notice of such hearing shall be published in accord with Council policy including specific notification to all affected governmental units and independent commissions. Such hearings shall be held within the 90 day review period prescribed by law and may not be held if the Commission requests such a hearing less than 30 days prior to the end of the review period prescribed by law.
4. Within 90 days of receipt of the program, the Council will review the recommendations of the committee and approve or disapprove the program in whole or in part, and transmit its decision to the Commission. The Council shall not approve the whole or any part of a Development Program which is not in conformance with the adopted policy plan.
5. If required by Council action, the Commission shall make appropriate revisions to the program and submit the same to the Council for review within 60 days. The Council may specifically condition the approval of any matter contained in a development program with reasonable subsequent conditions.
6. After approval by the Council of the Development Program, the Commission shall implement the program. No action shall be taken by the Commission unless authorized by the program and, as appropriate, approved as part of its Capital Budget.

7. Approval of the Development Program by the Council will constitute consent of the Council for the Commission to apply for federal and state funds for projects approved as part of the program, for plans and specifications (Step 2) or construction (Step 3) funds.
8. The Commission shall review the Development Program biennially for possible amendment. An amendment to the Development Program may be initiated by the submission of a resolution from the Commission to the Council suggesting the same and describing the reason therefor. Local government units, interested persons, or the Council may at any time petition the Commission to consider amendment. Upon receipt of a Commission resolution, the Council shall act thereon in accordance with these procedures, provided that the Council may, after full consideration, resolve not to adopt the proposed amendment.

B. Content of Development Program

The Metropolitan Reorganization Act lists descriptive criteria for each proposed improvement in the Development Program. The Council has identified below matters which it requires to be included in a proposed program. The listing is not definitive or all-inclusive, and project descriptions by the Commission must comply with the legal requirements and policy plan as well as these procedures. The MRA requirements are shown in capital letters, and the specific content and outline required by the Council follows. In the event that any of the following is inappropriate for any improvement contained in the development program, that should be noted together with a brief statement of the basis for that opinion.

1. The design standards of all proposed projects shall be identified for each project, as specified by Commission, state or federal regulations.
2. The relationship of each proposed project to the approved local sewer policy plan of each affected local government unit shall be indicated.
3. A DESCRIPTION OF THE IMPROVEMENT, ITS LOCATION, FUNCTION AND ESTIMATED COST.
 - a. Point of discharge of the effluent, site location, design area of projected service, and staging area by metropolitan sewer service and metropolitan urban service boundaries.
 - b. Estimated annual cost of each improvement, with identification of planning, engineering, and construction costs, including direct and indirect costs as appropriate.
 - c. Where appropriate, project locations should be shown on topographical map illustrations.

- d. For interceptors: design life, gravity or force main design, design capacity and velocity for peak, average, daily, and minimum flows and infiltration flow estimates, all for the first five years of operation.
 - e. For treatment plants: permanent or interim use, proposed treatment plant process and degree of treatment, wastewater design characteristics, including average domestic, commercial, industrial, and total inflows minimum and maximum flows, and conformance with existing and anticipated NPDES effluent limitations.
4. THE PROPOSED MANNER OF FINANCING THE CAPITAL COSTS OF THE IMPROVEMENT, AND THE SOURCES OF REVENUE AVAILABLE FOR PAYMENT OF SUCH COSTS.
- a. Costs should be listed for each improvement along with the year the cost will be incurred.
 - b. Revenue sources for each improvement should be described including: amounts which will, or are expected to, be paid by federal and state grant funds together with the year in which receipt is anticipated and the basis for such expectation; amounts which are expected to be paid from bond receipts, investment income, and other revenues.
 - c. Indicate present and future bond issuance requirements which are expected to result from the program including the years in which new bond issues would be required.
 - d. Indicate the probable effect of the program on the allocation of current and reserve capacity (SAC) costs to municipalities.
5. A SCHEDULE SHOWING ON A YEARLY BASIS THE TIMING OF LAND ACQUISITION, CONSTRUCTION AND CAPITAL EXPENDITURES FOR THE IMPROVEMENT.
- Land acquisition, construction initiation and completion, and capital expenditure schedules should be shown for all proposed projects, for each year of the five-year development program interval.
6. A REVIEW AND DESCRIPTION OF THE PUBLIC NEED FOR THE IMPROVEMENT, ALTERNATIVES TO THE IMPROVEMENT (INCLUDING ALTERNATIVES NOT INVOLVING CAPITAL EXPENDITURES), THE ENVIRONMENTAL AND SOCIAL EFFECTS OF THE IMPROVEMENT AND ALL ACTIONS AND STEPS THEREFORE TAKEN BY THE COMMISSION WITH RESPECT TO THE IMPROVEMENT.
- a. Reference to and discussion regarding specific finding of

need contained in the approved policy plan justifying each proposed project.

- b. Description of alternatives should include existing and potential action by agencies other than the Commission, possible reliance upon other conveyance methods or treatment works, location and timing alternatives, and the advantages of each alternative including estimated costs.
 - c. Environmental effects including specifically the protection open space elements described in the Protection Open Space chapter of the Metropolitan Development Guide, and other environmental information as appropriate.
 - d. Social effects, both adverse and beneficial, including but not limited to the effect on public health and housing supply.
 - e. Other information pertaining to all actions and steps taken heretofore by the Commission with respect to each improvement.
7. AN ESTIMATE OF THE PROBABLE IMPACT OF THE IMPROVEMENT ON THE RESPONSIBILITIES OF THE OTHER METROPOLITAN COMMISSIONS.
 - a. Relationship to any existing or proposed regional park facility of the Metropolitan Parks and Open Space Commission, including proximity to facilities, shared-use potential of proposed facilities, and summary comment by the Metropolitan Parks and Open Space Commission as appropriate.
 - b. Relationship to any existing or proposed facility or services of the Metropolitan Transit Commission, including conformance with timing of regional highway or transit improvements, and conformance of area of proposed sewer service with staging of highway or transit access, and summary comment by the Commission as appropriate.
 - c. Relationship to existing or proposed facilities or services of other metropolitan boards and commissions, as appropriate.
8. AN ESTIMATE OF THE ANNUAL OPERATING COSTS OF THE IMPROVEMENT AND SOURCES OF REVENUE AVAILABLE FOR PAYMENT OF SUCH COSTS.
 - a. Annual cost estimates for operation and maintenance of each proposed improvement, including equipment replacement, utilities, labor, and debt service.
 - b. Revenue sources to meet annual costs, and impact of improvement costs upon user fee schedules of affected service areas.

9. AN EVALUATION OF THE RELATIVE PRIORITY OF THE IMPROVEMENT TAKING INTO CONSIDERATION OTHER CAPITAL IMPROVEMENTS DESCRIBED IN THE PROGRAM.

Statement of the relationship of each project to priorities adopted in the Council policy plan."

"MCP 5 Capital Improvement Budget

General Discussion

Pursuant to the Metropolitan Reorganization Act, the Commission must prepare and submit a proposed budget covering the following year to the Council. The first such budget to be prepared in 1975 shall cover the year 1976. The complete budget (operating and capital inclusive) should be submitted to the Council by August 1 of the year preceding its effective date. The Council shall act to approve or disapprove those parts of the budget relating to revenues and expenditures for capital improvements by October 1. These procedures prescribe the detail and form of the capital improvements budget. Before December 15 of each year, the Commission after obtaining approval of the Council for any changes in the proposed capital improvements budget, shall by resolution adopt the final budget (operating and capital inclusive) which shall be filed with the Council on or before December 20 of each year. Thereafter, the Council shall file the Commission budget together with comments, if any, with the Secretary of the Senate and the Clerk of the House of Representatives no later than January 15 of each year.

During 1977, the Council shall adopt program budget regulations and the Commission shall submit its budget for 1978 in the form established by those regulations.

The Metropolitan Reorganization Act states that the Council is to review and comment on plans and specifications for the acquisition or betterment of interceptors or treatment works authorized by the policy plan and the Development Program. Once the Council has commented and other necessary governmental approvals have been obtained, the Commission may proceed with bids and contract awards.

It is recommended that the plans and specifications for interceptors or treatment works included in the proposed capital budget be submitted for review to the Council simultaneously with the proposed capital budget, although as separate referrals. This practice will help reduce the number of separate and time-consuming Council and committee reviews.

A. Handling Procedures

1. The complete budget, together with plans and specification, shall be submitted to Council no later than August 1 of the

year preceding its effective date. The Referral Administrator shall acknowledge receipt of the same, notifying local governmental units, and transmit the documents to the planning staff for review. The Chairman of the Council shall designate an appropriate Standing Committee of the Council to consider the submitted budget.

2. The Council shall hold a public hearing on the proposed capital budget to receive comments of the Commission, local governmental units and other interested persons on the request of an affected local governmental unit, the Commission, or on its own initiative.
3. The Council shall approve or disapprove in whole or in part, the capital budget by October 1. Council review and comment on plans and specifications submitted by the Commission shall, to the extent practicable, accompany budget approval.
4. The Commission may offer appropriate submissions necessary to achieve Council approval of the capital budget at any time prior to November 30.

B. Definition

1. 'Capital improvements' shall mean any project or activity including study planning or design engineering involving any acquisition or betterment, (including without limit construction, renovation, replacement, reconstruction or expansion) of any structure or facility or item of equipment to be leased, owned, or funded by the Commission during the budget year.
2. 'Capital improvements funds' shall mean any funds used to pay for any capital improvement, or for any engineering, design, or planning activity or study in connection with any contemplated capital improvement.
3. 'Encumbered' - Encumbered funds shall mean funds which are legally required to be paid out by the Commission by virtue of an executed contract, purchase order, or other executed legal instrument.
4. The Council shall provide specific interpretation regarding the above at any time on its own or the request of the Commission.

C. Contents of the Capital Budget: The Capital Budget Shall Contain:

1. A specific listing of all capital improvement funds estimated to be received during the year from all sources, including local revenues, in such detail as the Council may prescribe.

2. A description of the authorization for each improvement as specified in the approved Development Program or Policy Plan.
3. The expected cost of each improvement, the basis for estimate, the amounts of appropriations needed to pay for each improvement, and the planned source and amounts of funding.
4. Any likely impact of improvements costs upon service charge schedules, including reserve capacity charges, for each affected service area.
5. An annual cost estimate for operation and maintenance of each proposed improvement, including equipment replacement, utilities, labor, and amortization.
6. A description of measures which have been or will be taken with respect to each improvement to ensure compliance with the adopted policy plan and development program should be given, including, but not limited to, restriction on the construction or use of an improvement prior to the submission of a local sewer policy plan.
7. A report on the status of applications, for and revenues and expenditures from federal and state grants for projects previously authorized by the Council and a listing of all improvements completed pursuant to the previous budget.
8. Improvements to be financed by federal or state grants should be included in the capital budget only if the grants are expected to be awarded prior to or during the budget year.

D. Final Budget Effect: Amendment

1. Following approval of the final budget, the Commission may commence improvement and may expend any appropriation approved as part of the capital budget during the budget year. Budget appropriations not expended or encumbered by the end of the budget year shall lapse and shall be subject to budget reappropriation in a subsequent budget.
2. The Commission shall spend money for capital improvements only in accord with the approved budget and with the appropriations contained therein except in the case of emergencies for which a procedure shall be prepared by the Commission and approved by the Council.
3. The Commission may request that the Council approve an amendment to the capital budget to transfer appropriations or for other purposes at any time following the Commission's adoption of the final budget. The Council shall act to approve or disapprove a requested amendment within 30 days following the

receipt of such a request unless a longer review period is specifically granted by the Commission."

Footnotes

¹Laws 1975, Chapter 13, Section 12.

PLANS AND SPECIFICATIONS REVIEW

The Minnesota legislature recognized that the implementation of regional policy involved more than project approval and appropriation of funds. An additional dimension was the incorporation of policy elements into the actual designs and operating procedures of a facility, with the attendant problems of ensuring that an engineering design staff could respond to the policy direction and conditions established during the Council's review of a project in its initial stage. To provide such coordination, it was thought necessary to give the Council the power to review and approve plans and specifications of Sewer Board Project before actual construction could begin. The Sewer Act stated:¹

The board shall prepare and submit to the council for approval, plans and specifications for the acquisition or betterment of interceptors or treatment works authorized by the council's comprehensive plan, and after approval by the council, and approval by the agency (MPCA) if required, may advertise for bids for all work and materials called for by such plans and specifications, and award a contract to the lowest responsible bidder.

Council Review

The Metropolitan Council has used plans and specifications review to assure itself that a project that is about to be constructed is consistent with any conditions of approval made at the time the Council reviewed the Board's capital improvement program. As early as 1970, the Council advised the Sewer Board of various project approvals with the understanding that the Council would have an opportunity to review and comment on each specific project as designed to determine its conformance with routing, timing and over-all development as outlined in the Metropolitan Development Guide.²

Plans and specifications review, while used only between the Metropolitan Council and the Metropolitan Waste Control Commission, has included both water and air quality considerations. Most plans have been for sewage treatment, interceptor, pump, and related building facilities. In the case of air quality, a recent example was the 1975 Brooklyn Park Odor Control project submitted to the Council for its review by the Commission. Because the sewage pumping station air vents had caused residents to complain about odor and noise, the Commission proposed an oxidizing system to eliminate odor from the air vents. Funds had previously been approved by the Council for this improvement, and plans and specifications review for the oxidizing system were the final step in the Council's approval sequence.

Other plans and specifications reviews by the Council covered environmental impacts of a project not previously anticipated when the capital program was submitted by the Sewer Board. For example, when the

Metropolitan Council reviewed the plans and specifications for the Forest Lake Interceptor sewer serving the northeastern corner of the Metropolitan Area, the routing selected by the Sewer Board caused some concern on the part of local residents about damage to an adjacent hardwood forest. After reviewing the alternatives with Council and Sewer Board staff, the Council approved the plans and specifications with revisions on routings and requirements that adequate steps be taken to protect trees, including avoidance of damage to root systems outside of the permanent easement area.³

Pro Forma Review

By late 1970, the Council determined that it was unnecessary to conduct a full review of all plans and specifications, deciding to delegate that responsibility to Council staff instead. It did this through the use of pro forma review. Pro forma review was to be used when the Chairman and Council staff found that a particular referral had little or no Metropolitan Area impact, or that it was clearly in accordance with previously established Council standards, policies, and procedures; or was concerned with a Metropolitan Area proposal developed in accordance with plans previously approved by the Council. Unless an affected party, the submitter, or a Council member requested a more extensive review, the Chairman would bring such a referral directly to the full Council's attention for disposition at the earliest possible opportunity.⁴ The adoption of these procedures thus left the review responsibility in the hands of Council staff for resolution on an informal basis, unless the disagreement was severe enough to require formal Council and committee involvement.

Since the adoption of the pro forma procedures in 1970, only two plans and specifications referrals have been given extended review by a committee and full Council. The first one, the Forest Lake Interceptor in 1971, occurred because of requests made by local residents described earlier. The second one, the Lake Ann Interceptor, had been approved by the Council as part of the Sewer Board's 1971 Capital Improvements Program. Subsequent design work used flow projections based on planning data prepared by the Metropolitan Council, and in accordance with local flow projections approved by the Council in its review of the local community's comprehensive sewer plan in the same year. Design of the plans and specifications also proceeded on the basis of the Council's Development Guide policy of designing gravity interceptor sewers for a minimum of 40 to 50 years.

When Council staff reviewed the Lake Ann plans and specifications in 1973, staff recommended that the 66-inch diameter pipe, as designed, not be built and that an interim 27-inch diameter pipe be constructed in its place which would be adequate through 1986. The decision on additional capacity after that time by either constructing a 60-inch and 48-inch parallel pipe system or designating and sizing another trunk line as an interceptor would be deferred. Sewer Board staff objected to the

alternative proposal and commented in a memorandum to the Board:⁵

The Sewer Board staff takes strong exceptions to the statements in the [Council referral] memo, to the engineering analysis of the system, as it affects interceptor sizing, scheduling, and operational problems, to the cost effectiveness statements, and most important, to the development of arbitrary standards for evaluating the interceptor design which [development of the standards] is in conflict with the Development Guide Policies, such standards being applied after the design has been completed.

After reviewing the various materials, the Council's Referral Committee concluded that because of immediate pollution problems, local commitments based on previous Council decisions, and the immediate need to accept an EPA construction grant offer, the plans and specifications for Phase I should be approved.⁶ The Council approved the plans and specifications for the interceptor project as submitted.

1974 Amendment

The reluctance of the Council to interject itself into engineering and design deliberations, and the restricted attention it gave to plans and specifications through its pro forma review procedure, culminated in a change in its authority for such review and approval with the passage of the Metropolitan Reorganization Act in 1974. A new procedure for review only was provided:⁷

Subd. 3 The commission shall prepare and submit to the council for review and comment, plans and specifications for the acquisition or betterment of interceptors or treatment works authorized by the council's policy plan and the commission's development program, and after review and comment by the council, and approval by the agency if required, may advertise for bids for all work and materials called for by such plans and specifications, and award a contract to the lowest responsible bidder.

Thus, the Council still had the opportunity to determine if the plans and specifications were in accordance with its earlier project approval decisions and conditions, but it could not use such review as an opportunity to propose design alternatives as its staff had suggested in the Lake Ann referral.

Since the law did not provide any immediate recourse in the event that the plans and specifications were not in accordance with earlier Council action, as well as to consolidate the number of separate reviews of a project, the Council adopted, as part of its procedure for capital budget review, the requirement that the Metropolitan Waste Control Commission submit the plans and specifications for projects simultaneously with its capital budget funding request for those projects. This procedure would permit the Council to determine if the project design was consistent before releasing money for its construction, while eliminating the need

for separate Council reviews.

Footnotes

¹Laws 1969, Chapter 449, Section 16.

²Letter from James Hetland to Milton Honsey, April 30, 1970,
"Metropolitan Sewer Board's Capital Improvement Projects."

³Letter from James Hetland to Milton Honsey, March 19, 1971,
"Forest Lake Interceptor Plans and Specifications."

⁴Memorandum from James Hetland to the Metropolitan Council, October
16, 1970, "Approval of Sewer Board Detailed Plans and Specifications."
See also, Referral Manual, Metropolitan Council, January, 1972, p. 5.

⁵Memorandum from Richard Dougherty to the Metropolitan Sewer Board,
January 11, 1973, "Lake Ann Interceptor, Phase I, Project 71-38."

⁶Metropolitan Council, January 19, 1973, Report of the Referral
Committee, "Lake Ann Interceptor Sewer Plan Review, Sizing and Scheduling."

⁷Laws 1975, Chapter 13, Section 80.

METROPOLITAN SEWER BENEFIT DETERMINATION

When the Metropolitan Sewer Act was passed in 1969, it charged the Metropolitan Council with, among other responsibilities, that of allocating the costs associated with the expansion, improvement and operation of the metropolitan sewer system among the using municipalities. In addition, the act provided that:¹

When the council determines that a particular interceptor or some part thereof is of substantial benefit to the metropolitan area as a whole, each year the board shall deduct all of the current costs thereof allocable to such benefit from the current costs to be allocated under subdivision 4. The total amount so deducted shall be allocated among and paid by all local government units in the metropolitan area which will discharge sewage, directly or indirectly, into the metropolitan disposal system in the next budget year, as follows: (a) one-half in the proportion that the assessed value of all taxable property within each such local government unit in the metropolitan area bears to the assessed value of the taxable property in all such local government units, as last finally equalized before October 1 in the year in which the budget is adopted; and (b) one-half in the proportion that the population of each such local government unit in the metropolitan area bears to the total population in all such local government units, as estimated by the council from the most recent data available to it.

The statute did not further define "substantial benefit to the Metropolitan Area" and did not provide criteria for making the determination. Because such a determination might significantly affect sewer service charges to municipalities of the area, the Council in 1971 undertook to define the term "metropolitan benefit" in consultation with local government units.

On June 22, 1972, the Metropolitan Council adopted a policy for declaring "Metropolitan Sewer Benefit," recommended to it by its Development Guide Committee. The recommendation came after a lengthy process that included development of policy alternatives for public discussion, public meetings in each sewer service area with local officials, written responses from sewer service area advisory boards and individual communities, as well as consideration at numerous Development Guide committee meetings. The committee noted in its June 2, 1972, memorandum to the full Council, that the process had proved valuable to the committee and its recommendation because:²

(1) It provided the opportunity for [it] to hear and receive in writing very valuable inputs to the final policy recommendations as it is now written, and (2) it led to a very clear consensus among the service area advisory boards and almost all local governments who responded as to the substance and format of the

policy and computation method they preferred.

The adopted policy is a description of a method for computing under what conditions a benefit will be declared and what amount of the cost of that interceptor will be allocated to the region as a whole. The policy did not include a procedure for its implementation. Subsequent adoption of the Service Availability Charge (SAC) on October 12, 1972 was intended to eliminate application of the metropolitan benefit policy, since in theory SAC should compensate for the same effect. As a result, the Metropolitan Sewer Benefit concept was never applied. However, the Council never rescinded the metropolitan benefit policy and it still appears as part of its current "Administrative and Operational Procedures" for the MWCC.

The metropolitan benefit sewer policy approved by the Council is as follows.

"METROPOLITAN COUNCIL POLICY FOR DECLARING
METROPOLITAN SEWER BENEFIT
(Adopted June 22, 1972)

The Metropolitan Council may determine that a particular interceptor or some portion thereof is of substantial benefit to the metropolitan area as a whole, and the current costs allocable to such benefit shall be allocated according to Minnesota Statutes, Section 473.08, Subdivision 5, if:

1. The interceptor eliminates the need for a treatment works not existing on January 1, 1970, which could have been constructed consistent with Minnesota Pollution Control Agency and Metropolitan Development Guide standards in effect when the decision is made to construct the interceptor, or eliminates the need for a treatment works existing on January 1, 1970 or improvements to it; and
2. The decision to build the interceptor was is is made to protect or improve a water resource of metropolitan significance. The term "water resource of metropolitan significance" shall include any lake or any portion of a major river used as a source of municipal water supply or designated by the Metropolitan Council as a water area to be protected.

Once an interceptor has been determined to be of metropolitan benefit, the costs eligible for allocation under the metropolitan benefit provision shall be those current costs incurred after December 31, 1971.

When the Council makes a determination of metropolitan benefit, the Sewer Board shall compute the amount of current costs allocable thereto in preparing its budget each year. The amount of current costs allocable to such benefits shall be the difference between the current costs allocated to a service area in such year and the current costs that would have been allocated to the service area if the lowest cost disposal system alternative had been retained, selected or constructed consistent with paragraph one.

Footnotes

¹Laws 1975, Chapter 13, Section 83, Sub. 5.

²Metropolitan Council, Memorandum from the Development Guide Committee, June 2, 1972, "Metropolitan Benefit Sewer Policy."

SEWER CHARGE REVIEW

The Metropolitan Waste Control Commission, in preparing its operating budget for each year, must determine the current costs for such year which are attributable to reserve capacity in treatment works and interceptors as provided by law:

Subd. 3. ALLOCATION OF METROPOLITAN TREATMENT WORKS COSTS; RESERVED CAPACITY. In preparing each budget the board shall estimate the current costs of acquisition, betterment, and debt service, only, of each treatment works in the metropolitan disposal system which will not be used to total capacity during the budget year, and the percentage of such capacity which will not be used, and shall deduct the same percentage of such costs from the current costs allocated under subdivision 2. The total amount so deducted with respect to all treatment works in the system shall be allocated among and paid by the respective local government units in the metropolitan area for which capacity unused each year is reserved for future use, in proportion to the amounts of such capacity reserved for each of them.

Subd. 4. ALLOCATION OF SERVICE AREA INTERCEPTOR COSTS; VOLUME AND RESERVED CAPACITY. Except as provided in subdivision 5, the current costs of all interceptors in each sewer service area established pursuant to subdivision 7 shall be allocated among and paid by all local government units in the sewer service area which will discharge sewage into them, directly or indirectly, during the budget year, in proportion to the volume estimated to be so discharged by each local government unit, adjusted as provided in subdivision 2, clauses (b) and (d), after deduction and allocation of current costs of acquisition, betterment, and debt service, only, for estimated unused capacity in the service area interceptors among local government units in the service area for which unused capacity therein has been reserved, in the same manner as that provided in subdivision 3.

1971 Sewer Cost Allocation Method

Based on the provisions of the act establishing the Metropolitan Sewer Board in 1969, by 1971 the Board had established a sewer cost allocation method which distributed costs into a treatment works pool and six service area pools. Treatment works costs included current maintenance costs, operating costs, and debt service relating to treatment capacity. Service area costs included those for current maintenance, operating and debt service relating to interceptor capacity. Debt service costs were divided into current use and reserved capacity charges. The system is summarized on the following pages.

A. Treatment Works

The debt service for a budget year allocable to each treatment works

was identified and then divided into two parts: the part allocable to capacity in the treatment works to be used in the budget year, and the part allocable to capacity not to be used in the budget year. The part allocable to unused capacity was then allocated among the local government units which were using or were expected to use the treatment works in question within approximately two years, i.e., those for whom the unused capacity was "reserved." For 1971, the first year of operation, treatment work costs were not split into current use and reserve capacity charges. The acquisition of plants and the conversion to a metrowide system throughout the year prevented an equitable computation of reserve capacity costs. The 1972 budget did separate each community's treatment work debt service into current use and reserved capacity. This was an attempt to spread these charges on the basis of reserved capacity, which varied among communities with their stage of development, a more equitable arrangement than division of capital costs by proportion of current use alone.

B. Interceptors

The debt service for a budget year allocable to interceptors located in each service area was divided into two parts: the part allocable to capacity of the interceptors to be used in the budget year, and the part allocable to capacity not to be used in the budget year. The part allocable to unused capacity was then allocated among the local government units in the service area which were discharging sewage into the system or which would have interceptors available to them within approximately two years.

Unless a deferment were granted, current costs of reserve capacity, allocated to a local government unit for a budget year were payable during the budget year. A deferment could be granted, under the provision of the law, by the Metropolitan Council if it determined that a substantial portion of the territory of a local government had not been connected to the metropolitan disposal system, and that the amount of such costs or some portion thereof was disproportionate to the available economic resources of the unit at the time.

In 1971 eligibility for deferment of payment was determined by comparing communities on the basis of their costs per million gallons of current use. Any community with a cost per million gallons more than one standard deviation above the average for the entire area was eligible for determining a "normal" ratio of reserve charges to current use charges based on the ratios of reserve to use in non-eligible communities (those with costs per million gallons within one standard deviation above the average). Eligible communities could then defer any amount of reserve charges greater than this normal ratio of reserve to use. The amount deferred was then paid by other current users who, in effect, loaned the money to the community with high reserve charges. At some time in the future these communities with deferments would repay the deferments plus interest at the approximate average annual rate borne by Council bonds outstanding at the time of the deferment.

Evaluation of the Sewer Cost Allocation Method

In December, 1971, the Council and the Sewer Board agreed to establish a Management Committee consisting of the respective chairmen of the Council and Sewer Board, and the Executive Director of the Council and the Chief Administrator of the Sewer Board. This committee initiated a joint staff study to make a complete review of the cost allocation system, and a report was issued in July, 1972.³ The report identified the following major problems.

A. Reserve Capacity

The major problems with reserve capacity were associated with flow factors. First, the method of assignment of capacity in interceptors and treatment works to each individual municipality was a problem. A large number of municipalities requested a re-evaluation of capacity assignment, to make the assignment more reflective of the actual future needs of the community rather than the design of existing facilities to serve the municipality. The assignment method was criticized for not reflecting adequately current population estimates and potential community growth; the capacity assignment should have uniform application to all service areas.

Second, the size of reserve capacity charges for areas which had just begun to develop were excessive. This factor also resulted in the wide variation of charges among the municipalities served by the metropolitan system. A way to reduce the wide variation in charges to local communities was sought.

Third, a survey of municipal charges and revenue sources used to pay the costs allocated to them by the Sewer Board indicated that most communities did not make any distinction between current user cost (treatment works costs and service area interceptor cost) and future user costs (treatment works reserve capacity costs and service area reserve capacity costs). In most cases the current users were being charged the future or reserve capacity charges. The study recommended that the allocation of costs based on the distinction between current use and future use should be continued consistent with the intent of the Metropolitan Sewer Act, and that the 1973 allocation method should provide that the reserve capacity charges be paid by future users rather than current users.

Fourth, the large deferments granted to some communities in the 1971 and 1972 cost allocations would likely continue for a number of years, and it would be exceedingly difficult for these communities to repay the deferments if they continued in the amounts granted in 1971 and 1972. A means to eliminate or substantially reduce the annual deferment amounts and a repayment policy were needed.

B. Cost Allocation Adjustment for Strength and Surface Water

The Board did not adjust for strength of waste discharges or

surface water discharges in either the 1971 or 1972 cost allocations. An analysis of the impact of surface water on the treatment plant processes indicated that the flow from combined sewers and other surface water resulted in the need for larger treatment plant capacity. The flows did not result in decreased operational costs and adversely affected treated effluent during periods of high surface water influent into the plants. The Board had adopted a system to surcharge high strength discharges in its "Sewage and Waste Control Rules and Regulations for the Metropolitan Disposal System" which relied upon surcharges directly to the individual making the discharge rather than measuring the strength of a municipality's flow into the disposal system, which was difficult to obtain and expensive to monitor. The Board's method would meet the EPA Industrial Cost Recovery requirement and provide a means to charge the users with strengths through the municipalities.

C. Initial Allocation of Costs to Municipalities

Cost allocations for several municipalities were cancelled during 1971 and 1972 because the projects designed to serve them were either delayed in construction or engineering. The first cost allocation to newly developing municipalities resulted in charges which these municipalities did not have the means to finance. A policy to reduce the financial impact was needed, so that municipalities would be allocated costs at the time they began discharging sewage into the metropolitan disposal system.

As an example of the problem with reserve capacity, in 1972, the costs of reserve capacity were estimated at nearly \$6 million: almost 50% of all debt service, and nearly 25% of the total budget.

Service Availability Charge

As a consequence of the joint study efforts by the Council and the Sewer Board, a new method of cost allocation called Service Availability Charge (SAC) was proposed and adopted by the Council in October, 1972. For 1973 and succeeding years, the allocation of reserve capacity and of current costs of reserve capacity for treatment works and interceptors among municipalities would be based on annual sewage flow to be discharged from new sewer connection or new building construction commenced in the municipality during the year. The new allocation policies are described below.⁴

When the Council adopted its procedures for the Commission's Development Program and Capital Budget, provision was made for indicating how any proposed system improvements would affect the Commission's user charge schedule.⁵ Thus, before the Council gave its approval to a particular project or program, it would first be able to determine what effect such improvements would have on the adopted user fee schedules of affected service areas if incorporated in either an approved Capital Improvements Budget or Development Program.

"POLICY I

ANNUAL ALLOCATION BASED ON UNITS. The Sewer Board, in preparing the Operating Budget for 1973 and each year thereafter, will determine the current costs for such year which are attributable to reserve capacity in treatment works and interceptors as provided in Section B, Subdivisions 3 and 4 of the Metropolitan Sewer Act (MSA Sec. 473C.01 et Seq.). In adopting each Operating Budget, the Board will allocate the total of such costs among the respective local government units in the Metropolitan Area for whom capacity is reserved, for payment as follows:

- A. Each local government unit to which the Metropolitan Disposal System is or becomes available for use during the budget year shall pay an amount equal to the Service Availability Charge (SAC) per unit for that budget year times the number of units, or portions thereof, for which a building permit is issued after the date upon which will make available such service; and,
- B. Each local government unit shall pay an amount equal to the Service Availability Charge per unit for that budget year times the number of units, or portions thereof, connected directly to or indirectly to the Metropolitan Disposal System during the budget year, less any amount charged for the same units under (A).

Where a local government unit, subject to a charge under paragraph (A) or (B), has territory outside the Metropolitan Sewer Service Region, no charge shall be made for units constructed outside the Region and for which building permits are issued. Where a local government unit, subject to charge under paragraph (A) or (B), has territory in two or more Sewer Service Areas, the territory in each Service Area shall be treated as a separate local government unit for purposes of applying the provisions of paragraphs (A) and (B).

POLICY II

SERVICE AVAILABILITY CHARGE SCHEDULE. The Service Availability Charge for budget year 1973 shall be \$275 per unit. The Service Availability Charge proposed for subsequent years is according to the following schedule:

1974:	\$300
1975:	\$325
1976:	\$350
1977:	\$375

The rate for 1974 and subsequent years shall be subject to review and adjustment according to changes in projections of the current costs

of reserve capacity, the number of housing starts, or the number of connections to the Metropolitan Disposal System.

POLICY III

COMPUTATION OF UNITS. The number of units which are connected, or for which a building permit is issued shall be computed as follows:

- A. Single family houses, townhouses and duplex units shall each comprise one unit;
- B. Condominiums and apartments shall each comprise 80% of a unit;
- C. Mobile homes shall each comprise 80% of a unit;
- D. Other buildings and structures shall be assigned one unit for each 100,000 gallons of flow which it is estimated they will discharge, and commercial and industrial building units shall be assigned a minimum of one unit;
- E. Public housing units and housing units subsidized under any federal program for low-and-moderate-income housing shall be counted as 75% of the unit equivalent for that type of housing;
- F. Units existing or for which building permits were issued prior to January 1, 1973, shall be counted as one-half the unit equivalent for that type of housing, if connected to the Metropolitan Disposal System prior to January 1, 1974, and shall be counted at the full rate thereafter.

The Board will review the assignment of units under items (A), (B), and (C) and may find it necessary to make revisions as new forms of housing are provided. The Board will prescribe more detailed rules.

The computations for new building units shall include a deduction for demolition of existing building units located within the local government unit. Such deductions may be made on a month-to-month basis (new building units less demolished building units) and payment of charges shall be made on the net new building units. Deductions for demolitions are allowed on a cumulative basis over the entire budget year. If, at the close of the budget year, payment for new building exceeds the net of new units less demolitions in that budget year, then a credit for such overpayment shall be made against the charges due in the next year."

With the passage of the Metropolitan Reorganization Act in 1974, the Council was explicitly given the power to review any proposed user charges or fee schedules of the Metropolitan Waste Control Commission. The legislative directive emphasized review to determine consistency with Council policy and other fiscal impacts. By requiring the Commission to include user

charges with its proposed Development Program, the Council would be able to consider fiscal as well as physical system effects of the proposed program. The legislative directive is given below.⁶

Thirty days prior to the establishment of or change in any user charges or fees or schedule of user charges or fees the metropolitan commission shall forthwith submit proposed charges or fees or schedule to the council. The council shall review and comment upon the charges, fees, or schedule with particular reference to (1) their consistency with the development guide and policy plan, and (2) their fiscal impact on the metropolitan area, especially their impact on future debt service requirements, the financing of future capital improvements, and on the various local governmental units and classes of users.

Footnotes

¹Laws 1975, Chapter 13, Section 83.

²The following summary is taken from a Council staff memorandum to the Metropolitan Council, August 17, 1971, "Exhibit A: Background Report on Allocation of Sewer Costs."

³Metropolitan Council, July 20, 1972, "Summary of Joint Study by the Metropolitan Council and the Metropolitan Sewer Board for the Cost Allocation System of the Metropolitan Disposal System."

⁴Metropolitan Waste Control Commission, 1973, Reserve Capacity Charge Monthly Report Manual.

⁵See Metropolitan Development Guide/Policy Plan, MCP 3 B(8), and MCP 5 C(4), supra.

⁶Laws 1975, Chapter 13, Section 13.

INTERCEPTOR ACQUISITION CRITERIA

Need for Acquisition

When the Metropolitan Sewer Act was passed in 1969, it was expected that the Metropolitan Sewer Board would acquire and construct the major sewer lines and facilities in the area which were or would be used jointly for sewage from a number of municipalities and that municipalities would continue to construct and own the lines and related facilities which served principally the local community.

A number of lines which were constructed by a community became joint use facilities following the development of land adjacent to the community's boundary and in another jurisdiction. On a number of occasions, local governments have requested that the Commission acquire these lines on the basis that they are "metropolitan" facilities. Metropolitan acquisition typically will result in a cost benefit to the municipality proposing acquisition because of the acquisition payments and the district-wide cost disbursement required by the Metropolitan Sewer Act.

The statutes set out a procedure with regard to acquisition of locally owned lines and facilities, as follows:

At any time after January 1, 1970 the waste control commission shall assume ownership of all existing interceptors and treatment works which will be needed to implement the council's comprehensive plan for the collection, treatment, and disposal of sewage in the metropolitan area, in the manner and subject to the conditions prescribed in subdivisions 2 and 4, and shall thereafter acquire, construct, equip, operate and maintain all additional interceptors and treatment works which will be needed for such purposes. The commission shall assume ownership of all treatment works owned by a local government unit if any part of such treatment works will be needed for such purpose.

And Subdivision 2 states that:

The commission, with the approval of the Council, may require any local government unit to transfer to the commission...all of its...interest in any interceptor.... which will be needed for the purposes stated in Subdivision 1.

The statute thus makes the Council ultimately responsible for approving Commission acquisitions of municipally owned lines and facilities, and approval may not be granted unless the line is needed to implement the Council's comprehensive plan.

Interceptor Definition and Criteria

In 1970, the Council and the Commission determined which joint use locally owned lines to acquire, considering such factors as the size of the pipe, its condition, unused capacity, service area, etc. In November of 1970, just prior to the Council's grant of approval to the Sewer Board covering the initial acquisition of local facilities, the Council approved a document entitled "Interceptor Definition and Criteria."² These guidelines were to clarify the Council's position on Board acquisition of existing lines and future construction of metropolitan interceptors. Key provisions of the criteria are summarized below.

Criteria for Determining Existing Interceptors to be Taken Over by the Metropolitan Sewer Board

The Sewer Board shall acquire all sewer pipes (and necessary appurtenances), existing or under construction as of December 31, 1970, which are interceptors within the meaning of the statutory definition set forth in Section 1, with the exception of interceptors coming within the following categories:

1. A pipe (or segment thereof) used primarily as a lateral or collector sewer serving an area not exceeding 75 acres in a local government unit outside the one in which it is located.
2. A pipe which will not qualify as an interceptor when sewage originating in an upstream local government unit is diverted to another interceptor in accordance with present plans of the Board.
3. A pipe which the local government unit has requested or agreed that the Board not acquire.

Criteria for Determining New Interceptors to be Constructed as Part of the Metropolitan Disposal System

1. The interceptor shall meet all of the following criteria:
 - a. It must be designed for use primarily as an interceptor sewer in the engineering sense, that is: (1) It shall be an arterial sewer receiving or designed to receive flow from main or trunk sewers flowing transverse to it; and (2) It shall convey or be designed to convey sewage from a multiple number of drainage areas; and
 - b. It must be intended to serve at least 1,000 developable acres in a local government unit other than the one in which it is located, or the anticipated future average daily flow in it from a local government unit other than the one in which it is located must be at least 5,000,000 gallons; and
 - c. It must conform to the definition of an interceptor contained in the Ten States Standards; or
2. The interceptor shall be designed to serve all or substantially all of a local government unit.
3. In addition to 1 or 2, the interceptor shall be constructed

only if it is included in a capital improvements program prepared and approved by the Council with the assistance of the Sewer Board.

Evaluation of Criteria

By 1975, as a result of a number of acquisition referrals forwarded to it from the Commission and initiated by local governments, the Council had sufficient experience with its criteria to evaluate their effectiveness. Several staff memorandums reviewed the criteria for deficiencies in resolving past and pending acquisition referrals, identifying the following problem areas.³

First, there was insufficient emphasis on the need to acquire the facility in order to implement the Council's sewer plan, and there was no uniform procedure for gathering facts and making analyses and recommendations on individual acquisition proposals by local governments. The Council had on a few occasions ordered acquisition although the line did not meet the definition or qualify for a variance, when other circumstances warranted acquisition.

Second, standards by which to judge future municipal acquisitions were too limited, i.e., they covered only those lines which were in existence or under construction as of December 30, 1970, and their focus on geographical area of service appeared overly rigid.

Third, review of local sewer plans by the Council and Commission neglected potential interceptor acquisition problems, although local sewer plan review was probably the most appropriate occasion to discuss whether a sewer line should be used or constructed as a local or regional facility. As an example, in one such review, Council and Commission acknowledgement of joint-use of a sewer facility between two local governments was later interpreted by the communities as an obligation of the two regional agencies to assume ownership of the sewer line in question.

Fourth, there was uncertainty as to whether the criteria gave the Council the discretion to refuse acquisition of a local sewer facility, even though it met the definition requirements. If ownership was not discretionary, then it was likely the Council would be forced to acquire more local lines intentionally designed by local governments to meet the requirements, thus transferring a significant share of local service costs to regional government.

Fifth, the terms "all or substantially all" and "developable acreage," appearing in Section III, were unclear and were given varying interpretations by local governments in their acquisition requests.

Finally, an important consideration in determining the utility of metropolitan interceptor designation was the length of time for its use, and whether a facility was needed for an interim or a permanent period of

time. The distinction would determine whether the Commission should enter into a contract with a local government unit for a limited time, or assume full ownership of a local facility. No mention of permanent or interim use was included in the interceptor definition and criteria, however.

1975 Acquisition Criteria

Accordingly, staff recommended to the Council in late 1975 that interceptor acquisition was no longer necessary for initiation of regional system operations. A new set of criteria was adopted by the Council, directed at the Waste Control Commission and local governments. These new arrangements, described below, emphasized the view that sewer acquisitions should correspond to the Council's policy plan for the Commission and should not be processed as independent requests from local governments unrelated to the Council's long-range policy. The criteria emphasized that Commission acquisitions of municipal sewerage facilities would be approved or disapproved by the Council in accordance with the adopted policy plan, development program, and capital budget procedures.

"Municipal Sewer Facility Acquisition

General Discussion

Pursuant to authority granted to the Council, metropolitan area municipalities and the Metropolitan Waste Control Commission may propose the acquisition by the Commission of existing municipal sewerage facilities and the Council must approve such proposals prior to Commission acquisition. It is the intent of these procedures to put an end to the period of initial metropolitan acquisition of local sewage facilities needed for the metropolitan system which began with the establishment of the Metropolitan Sewer Board in 1969. This procedure will become effective on January 1, 1976, at which time the Council's "Interceptor Definition and Criteria" will be superceded and replaced by this procedure. Until that time, the Council and Commission shall continue to process requests for local acquisitions pursuant to the Definition and Criteria approved by the Council November 25, 1970.

A. HANDLING PROCEDURES

1. Commission acquisitions of municipal sewerage facilities (hereinafter 'local acquisitions') and studies with regard to the same, shall be included as part of the Council's policy plan and the Commission's development program and capital budget and shall be approved or disapproved by the Council in accordance with the adopted policy plan, development program and capital budget procedures.
2. The Council or the Commission may recommend the amendment of the

policy plan to include the possible acquisition of a local facility in accordance with MCP1. No direct requests for the acquisition of local facilities shall be processed other than those that are included in the policy plan.

B. CRITERIA

1. In considering the inclusion of a local acquisition in a policy plan, the Council and Commission shall give consideration to any factors relevant to such a determination. However, local sewerage, line or pipe acquisition to be included in the policy plan, must at a minimum, satisfy the following conditions:
 - a. Be designed for use primarily as arterial sewers receiving flow from connecting main or trunk sewers and conveying sewage from a number of drainage areas; and
 - b. Have been designed to serve areas wholly within the metropolitan urban service area; and
 - c. Meet at least one of the following:
 - (1) Be designed to receive an average daily flow of at least 500,000 gallons per day from or serve at least 1,000 developable acres in local government units other than the one in which it is primarily located; or
 - (2) Is located in one local government unit and conveys or is designed to convey at least 90 percent of the ultimate sewage flow originating in an upstream local governmental unit; or
 - (3) Is needed to directly connect other facilities owned or to be constructed by the Metropolitan Waste Control Commission."

Footnotes

¹Laws 1975, Chapter 13, Section 80, Sub. 1.

²Metropolitan Council, November 25, 1970, "Interceptor Definition and Criteria."

³See: Memorandum from Ian Traquair Ball to Ed Maranda, Frank Lamm, February 11, 1975, "Metropolitan Interceptor Definition;" Memorandum from Karl Burandt to Frank Lamm, December 10, 1974, "Interceptor Sewer Criteria Discussion Paper;" Memorandum from Thomas S. Hay to Dick Nowlin, June 11, 1974, "Interceptor Definition and Criteria;" and Memorandum from Dick Nowlin to Frank Lamm, May 30, 1974, "Acquisitions of Municipally Owned Sewer Lines and Facilities: Recommendation Regarding Council Review and Approval Procedure."

SEWER SERVICE BOUNDARY DELINEATION

General policy direction for the establishment of service area boundaries was provided by the Council in the 1970 Sanitary Sewers chapter of its Development Guide. The service area boundaries served as the basis for the design of metropolitan sewer facilities by the Sewer Board, and the geographical limits for interceptor cost allocation by the Board to constituent local government units. Thus, while the Council did not undertake these responsibilities directly, it intended by incorporation of general guidelines in its Metropolitan Development Guide to provide sufficient direction to the Sewer Board as it prepared in its proposed capital improvements and budget requests.

The authority for the establishment of service area, and the linkages between Metropolitan Council and Metropolitan Sewer Board responsibilities, was written into the Metropolitan Sewer Act as follows:²

Subd. 7. ESTABLISHMENT OF SERVICE AREAS. The board with the approval of the council, after public hearing, shall by resolution establish sewer service areas, designated by name or number, each comprising that part of the metropolitan area primarily served or to be served by a particular interceptor or group of interceptors, or part thereof, situated within the sewer service area. At least 60 days before the hearing on the establishment of each service area, notice shall be published in a newspaper or newspapers having general circulation in the metropolitan area and in the service area and mailed to the governing body of each local government unit situated wholly or partly within the service area, stating the date, time, and place of the hearing and the local government units to be included in whole or in part, and describing in a general way the interceptors, existing or proposed, which will serve the area.

The Guide recognized that when the Metropolitan Area was almost completely developed, service area boundaries would approximate watersheds since sewer systems designed by drainage basins were the most efficient and economical to operate. In the interim, however, service areas would be limited to only those parts of the region which would require metropolitan sewer service within a reasonable period of time; as development took place, the service boundaries could be expanded to include new development.

In the short term, then, temporary service area boundaries were based on other factors besides watersheds, such as the emerging pattern of development, the design of existing sewer facilities, and Council expectations on future growth. When there were no overriding design reasons for the selection of a short-term service area boundary, political boundaries were convenient to use. Since local governments were the agents for paying sewage system costs, it was desirable to place entire municipalities in a single service area.

For service purposes, the Metropolitan Area was divided into two parts; a Metropolitan Sewer Service Region and a Peripheral Region. Development within the MSSR by the year 2000 was expected to be intense enough to require planning for centralized sewage collection works, while development within the Peripheral Region was expected to occur with on-site systems or small individual community sewage collection and treatment facilities.

In late 1969, only a few months after the establishment of the Metropolitan Sewer Board, the Council urged the Board to begin work on defining the service line, pointing out that its Sanitary Sewers chapter had reached the public hearing stage:³

The Metropolitan Council has approved for public hearing the Metropolitan Sewerage Plan. The Boundaries for the sewer service areas have generally been established in the sewerage plan. Under the Metropolitan Sewer Act, the Sewer Board now has the responsibility to precisely define, legally describe and map these boundaries for the purpose of the allocation of the sewer interceptor costs within each sewer service area.... The boundaries must be officially established by the Sewer Board before the cost allocation work can be completed during 1970.

Work was completed on the service area boundary definition by April, 1970, and the Sewer Board notified local governments of its public hearing in June of that year. The Council had noted earlier in its Guide chapter that

....changes in the sewer service area boundaries shown may need to be made by the Sewer Board to conform with existing sewerage facilities and to make the legal description follow established property lines or municipal boundaries where they substantially conform to the plan objectives. The Council also recognizes that the Metropolitan Sewer Board may from time to time recommend amendment of sewer service area boundaries as may be necessary or desirable pursuant to Laws 1969, Chapter 449.

In the early part of 1975, however, with the adoption of the Development Framework chapter of the Metropolitan Development Guide and revised population forecasts, the Waste Management Policy Plan recommended that the sewer services area be redefined. Since the Metropolitan Urban Service Area (MUSA) delineated by the Development Framework chapter encompassed an area more than adequate to accommodate new development into the 1990's and beyond, the policy plan proposed that MUSA line be the basis of the revised MSSR. In some parts of the Metropolitan Area, this would result in a shrinking of the outer perimeter and expansion in others. In several instances in which Freestanding Growth Centers - urban clusters separated from the principal metropolitan urban mass by intervening rural land - were involved, the new MSSR would include non-contiguous areas. In addition the designation of these growth centers as part of the Urban Service Area and the actual interceptor and treatment

works system organization would require some shifts in the sewer service districts of the MSSR.⁵

Instead of extending the service boundary through the year 2000, the policy plan recommended that only those portions of freestanding growth centers which would have central sanitary sewers available before 1990 as programmed by the municipality in its approved comprehensive sewer plan, would be included in the MSSR. The same would apply to those communities which were divided by the urban service line. Additionally, the plan recommended 13 sewer service districts to reflect the development policies of the Council instead of the 5 established in 1970.

Recognizing that many communities had adopted comprehensive sewer plans which were based on the expectation of service before 1990, and now were no longer consistent with Council plans, the policy plan required each local sewer plan to be modified to reflect the new service schedule. Once the new or revised local sewer plans were approved by the Metropolitan Waste Control Commission after Council review and comment, the new sewer service district lines could be legally defined and adopted by the Commission.

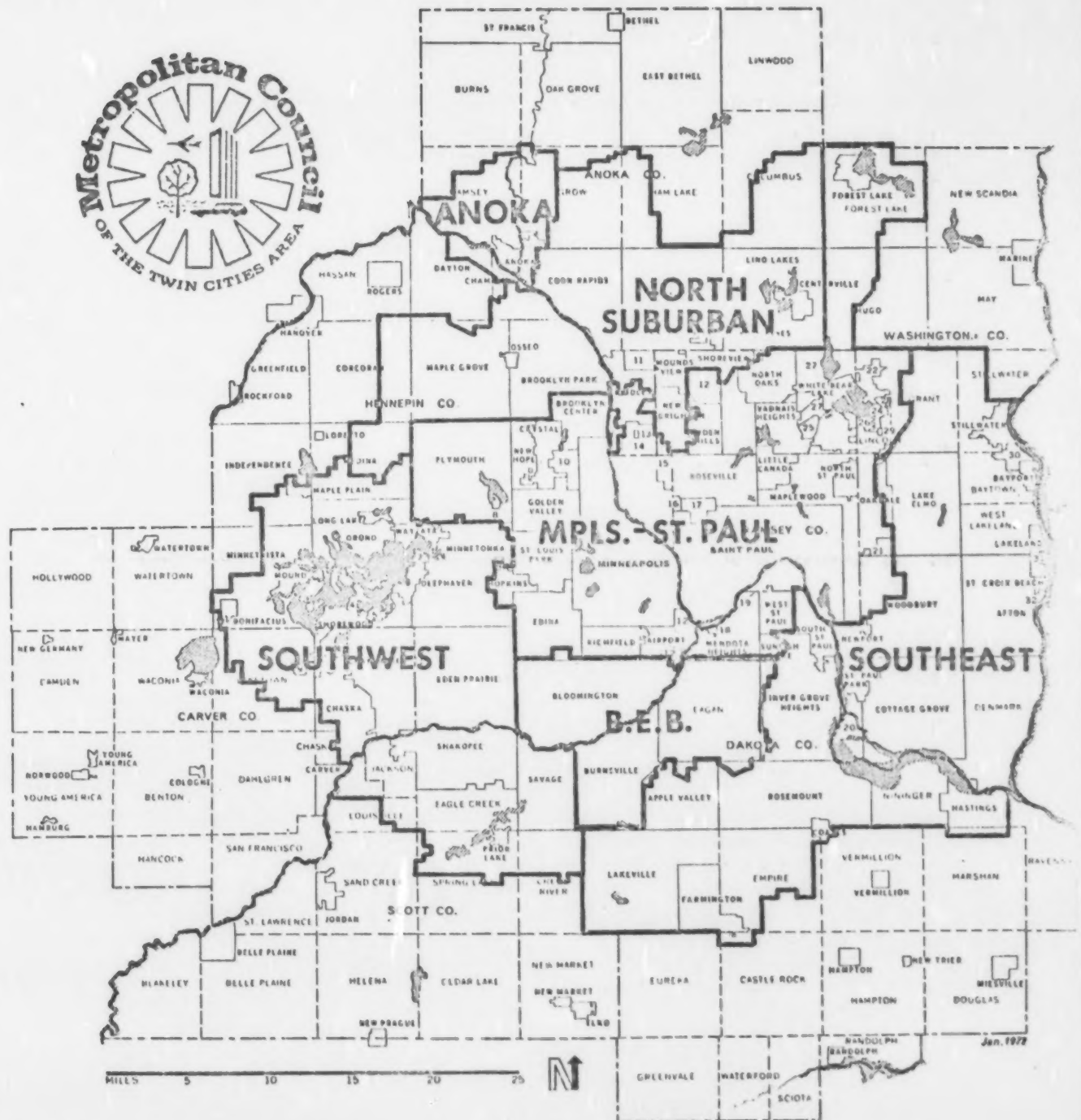
The extent of the Council responsibility to give specific direction to the Commission on service line definition, never clearly resolved, was discussed at some length by both agencies in an effort to coordinate their programs. The Council desired to contact each municipality within which the generalized Urban Service Boundary was indicated, with a view toward making whatever changes the Council determined necessary in that generalized line. The Commission was anxious to begin work on the legal redefinition of the line and sought to start such work in April, 1975, before the Council had completed the adoption process for its policy plan. Further, notifying the Council of its intention, the Commission expressed its concern over Council encroachment upon its responsibilities:⁶

During our discussion...you indicated that you intended to go out into the communities where there was some input regarding the location of the boundary lines. To this I would call to your attention the fact that the Council is to establish only an approximate or very general location of these boundary lines. It is the Commission's responsibility to make a very precise location of these boundaries, including a legal description, and to hold a public hearing on the exact boundary lines as so scribed. The precise line will be defined through the implementation of the comprehensive sewer plan submissions by local governments which the Commission is now proceeding to have resubmitted and revised to conform with the Council's Waste Management Plan which we anticipate will be adopted.

Subsequently, the two agencies agreed to cooperate in a common process of meeting with the affected local governments to redefine the service line, and further work by the Commission on the legal definition was postponed until after adoption of the policy plan.

11-54-a

Figure 3



SERVICE AREAS TO YEAR 2000

— Boundaries

Footnotes

¹Sanitary Sewers chapter, supra, p. 13.

²Laws 1975, Chapter 13, Section 83.

³Memorandum from Robert Jorvig, Acting Administrator, to the Metropolitan Sewer Board, October 29, 1969, "Sewer Service Area Boundary Definition Study Recommendations."

⁴Waste Management Policy Plan/Development Guide, supra, p. 25.

⁵Ibid.

⁶Letter from Joseph Strauss to John Boland, May 12, 1975.

PERIPHERAL AREA SERVICE APPROVAL

The 1970 Sanitary Sewers chapter of the Metropolitan Development Guide concentrated on the sewage needs of communities within the Metropolitan Sewer Service Region boundary. While the Council expected development in the Peripheral Region - the area outside the service boundary - to be sparse enough to allow use of on-lot or small individual community sewage collection and treatment facilities to be used without significant environmental consequences, it anticipated little difficulty with problems from existing systems or future facility improvement proposals.

By 1971, however, the frequency and magnitude of requests for sewer service to the Peripheral Region from both communities and private developers, as well as varying interpretations by Council and Commission staff on regional responsibility to meet the requests, led the Council to reconsider the issue. A staff memorandum summarized the problem as follows:²

We have had a continuing problem as to the decision making process in approving new small treatment plants in the fringes of the Metropolitan Area or expansion of existing ones. I believe this is to a large extent because of a lack of a clear policy statement as to the responsibility for such decisions and the procedures for consideration of such proposals. Without such policies and procedures, developers and local communities look to the Sewer Board for such decisions which results in tentative decisions and commitment of funds for new facilities out of context with the policies in the Sewer Section of the Metropolitan Development Guide. This in turn has resulted in some cases of a reversal of such decisions by the Council after rather substantial commitments have been made by developers, local communities and the Sewer Board.

The memorandum requested staff to develop a policy statement for the Council which would provide for Sewer Board technical review of facility construction proposals and Council approval, stressing the need for a procedure between the Council and Sewer Board which would avoid commitments to public or private parties by the Sewer Board before the Council had given its approval. No procedures were developed at that time, however, because of other staff program responsibilities. In May of the following year, the issue was again raised when the chairman of the Sewer Board wrote the chairman of the Metropolitan Council recommending that the Council and the Sewer Board adopt a policy with respect to the acquisition, betterment, and/or operation of private wastewater treatment works. The letter noted that the Minnesota Pollution Control Agency, in reviewing a permit application for operation of wastewater treatment facilities, had a policy that local units of government and the Sewer Board should accept the responsibility for the satisfactory operation of private facilities. The Sewer Board had not sought that responsibility because the Council's

Development Guide had not given it direction on the matter, there was no existing policy on it, and no provisions had been made to fund such acquisition and operation.³

The Sewer Board's request was prompted by a private mobile home park owner's application to the MPCA for a permit to construct an extended-aeration package plant for its mobile home units. The MPCA was reluctant to approve the construction because of its concern about the operation and maintenance of the proposed facility, and the applicant consequently had requested the Sewer Board to become a co-permittee in order to meet MPCA requirements.⁴

The permit application underlined the problem of coordinating environmental policy between regulatory and policy-making agencies at regional and state levels. The MPCA recognized the applicability of Council development guide policy to the permit application at hand and, after citing Council environmental policy, pressed for the Sewer Board to consider guaranteeing the proper operation and maintenance of the proposed interim sewage treatment facilities for the existing mobile home park.⁵ The absence of Council direction in its guide chapter on such participation was noted shortly afterwards when Council staff became aware of similar development problems in other parts of the Metropolitan Area that should receive Council attention.⁶

Subsequently, in December, 1972, the Council adopted a set of procedures relating to treatment works serving municipalities and private development in the peripheral region. In doing so, the Council noted:⁷

Many of these treatment works are presently not meeting existing Pollution Control Agency standards. The MPCA is considering even stricter standards which would place a further burden on the capability of the existing works to comply. The Council and Sewer Board have been coordinating with various parties involving the meeting of metropolitan concerns. Council staff approach to recommending individual solutions to treatment works problems has been hampered by a lack of specific Council procedures relating to the provision of adequate treatment facilities....

At present there is no effective way of requiring municipalities to produce local comprehensive sewer plans if they are not anticipating immediate construction of or improvement to their local sewage system. There also is no effective way of requiring municipalities and townships in the Peripheral Region to take over and operate existing private treatment works serving residential areas, notably mobile home park development. The Council has given the Sewer Board no clear direction regarding when and under what conditions to enter into agreements to construct or operate facilities in the Peripheral Region, or when to require local facilities in the Peripheral Region to be phased out and connected to the metropolitan disposal system. Guidelines for extension of service area boundaries are non-existent.

The guidelines adopted by the Council are summarized below.

"Recommended Procedures for
Providing Sewer Service in the Peripheral Region

Conformance to Metropolitan and Local Planning. Every municipality and township in the Peripheral Region must prepare and adopt a comprehensive sewer plan before undertaking extensions or additions to its disposal system, based on the Metropolitan Development Guide, and approved by the Sewer Board. When the actual need for sewage treatment differs from the assumptions made in the Metropolitan Development Guide, the Council staff, when appropriate, would recommend appropriate revisions to the existing Guide and applicable local comprehensive sewer plans. Resulting changes in the Guide, if any, would serve as a commitment by the Council and Sewer Board to coordinate with the local government unit to provide the necessary service.

Provision of Sewer Service in the Peripheral Region. No new privately owned and operated central treatment works serving residential development will be permitted, and municipalities in their sewer plans shall indicate steps to acquire ownership and to operate existing privately-owned treatment works within their jurisdiction.

Local Facilities. The recommended method of serving Peripheral Region local government unit may include a treatment works and/or an interceptor system. In some instances it may be desirable to route the sewage to a metropolitan disposal system facility within the Metropolitan Sewer Service Region, owned and operated by the Sewer Board. Any such local interceptor system from a point of collection within the local government unit to connection with the existing metropolitan disposal system will be considered a local rather than a metropolitan facility, and ownership and operation will be the responsibility of the local government unit.

Sewer Board Construction and Operation Within the Peripheral Region. It is possible for a municipality within the Peripheral Region to contract with the Sewer Board to construct, operate, or maintain any portion of its local system conforming to the Metropolitan Development Guide and local comprehensive sewer plan, providing that such contractual agreement conforms to the following fiscal considerations.

Takeover by the Sewer Board. The Sewer Board shall assume ownership as a metropolitan facility of any municipal treatment works or interceptor in the Peripheral Region, if service area boundaries are extended to include that municipality or if a new service area serving the municipality is created. When any such local facility is taken over, the Sewer Board will take over the outstanding bonded indebtedness for that facility, and will calculate the appropriate current value credit due the local government unit.

Council Financial Assistance. The Council may provide certain financial assistance to approved local treatment works and interceptors in the Peripheral Region, if specifically requested by the local government unit."

A referral involving the mobile home park is useful in indicating some of the difficulties experienced by the Council in implementing its procedures through the separate actions of other agencies, over a period of four years.

In September, 1971, the Council took action on an application by Kjellberg's, Inc. to build a new wastewater treatment plant to serve new and existing development in the Village of Dayton, including the mobile home park owned by the same firm.⁸ The Council approved construction of the plant subject to certain conditions, including design capacity limits, state effluent standards, and eventual acquisition by the village of Dayton. The firm proceeded with the design. In January, 1973, the Metropolitan Sewer Board requested Council approval for the Board to negotiate a contract with Kjellberg's Inc. for Board personnel to operate the facilities upon their completion until such time as these facilities were phased out or abandoned. The MPCA would not review the treatment plant plans and specifications and issue a permit for construction until the company had complied with the MPCA requirement that a governmental unit either operate the facilities or accept co-responsibility with Kjellberg's Inc.⁹

The Council reviewed the Sewer Board request against the procedures for sewerage the peripheral region, which it adopted three months earlier. It found that the Sewer Board operation and maintenance of the Dayton Mobile Home Park wastewater treatment works was consistent with the intent of the Metropolitan Development Guide, conditional upon the Metropolitan Council, Metropolitan Sewer Board, Village of Dayton, and Kjellberg's, Inc. entering into a contract regarding the provision of such services consistent with Scope of Services contained in the Referral Committee's report.

However, no further action was taken by the mobile home park to enter into the contract and it continued to operate its existing treatment facilities, which did not meet existing MPCA effluent standards and which discharged the effluent into a lake which drained into the Mississippi River. When Kjellberg's Inc. applied for a continuation of its variance in April, 1975, the Metropolitan Council requested the MPCA to order the elimination of sewage effluent discharge to the lake.¹⁰ The MPCA denied the variance request and as a result, discussions began between the company and the Waste Control Commission for the latter to operate the existing treatment works until the new treatment works became operational.

In June, the Council became aware of a proposed agreement between the mobile home park and the Commission to operate the existing facility, and to operate the new sewerage facilities when they were completed. Council staff then reminded the Commission of the conditional approval given by the Council in 1973 to such an arrangement:¹¹

...at the March 8, 1973, Council meeting, appropriate action was taken by the Metropolitan Council outlining the scope of service and the parties to a contract for service to the Kjellberg Mobile Home Park and its sewage treatment works... Note that the City of Dayton is to hold harmless the Waste Control Commission and the Council because they are the only authority capable of extracting money from Kjellberg if conditions become difficult.

Kjellberg Mobile Home Park is in the peripheral or rural area and independent operation of sewage treatment works is the general Council policy unless otherwise directed.

Subsequently, the Commission agreed to modify the proposed contract to reflect the conditions imposed by the Council in 1973.

Footnotes

¹Sanitary Sewers chapter, supra, p. 16.

²Memorandum from Robert Jorvig to Rey Boezi, August 24, 1971, "Approval of New Municipal Treatment Facilities or Major Expansions of Same."

³Letter from Milton Honsey to Albert Hofstede, May 26, 1972, "Acquisition of Private Wastewater Treatment Facilities or Operation and Maintenance Agreements for the Operation of Private Wastewater Treatment Facilities."

⁴Memorandum from Engineering Department, Metropolitan Sewer Board, to Richard Dougherty, May 5, 1972, "Dayton Mobile Home Park Wastewater Treatment Facilities - Operation and Maintenance Agreement."

⁵Letter from Gary Ginner, Minnesota Pollution Control Agency, to Wilbur Blaine, Metropolitan Sewer Board, February 9, 1972.

⁶Memorandum from Frank Lamm to Gerard Hegstrom, Staff Counsel, July 25, 1972, "Recent Requests for Council Staff Comment on Private Development, as Related to Our MDG."

⁷Metropolitan Council, December 28, 1972, "Procedures for Sewering the Peripheral Region," p. 3.

⁸Metropolitan Council, March 2, 1973, Report of the Referral Committee, "Proposed Contract Among the Metropolitan Council, Metropolitan Sewer Board, Village of Dayton and Kjellberg's, Inc. for Operation and Maintenance of the Dayton Mobile Home Park Wastewater Treatment Plant."

⁹Letter from Milton Honsey to Albert Hofstede, January 3, 1973.

¹⁰Metropolitan Council, April 10, 1975, "Statement to the Minnesota Pollution Control Agency on Dayton Mobile Home Sewage Effluent Discharge."

11-61

¹¹Letter from Eugene Franchett, Director, Physical Resources Planning, to Richard Dougherty, June 30, 1975.

COMPREHENSIVE SEWER PLAN REVIEW

A major provision of the 1969 Metropolitan Sewer Act was the requirement of a comprehensive sewer plan from all municipalities and townships in the Metropolitan Area, to be submitted to the Metropolitan Sewer Board for review and approval. Since a regional sewer planning and operating structure could not function independently of local community development plans and programs, the comprehensive sewer plan was intended to link the regional and local systems over the long term. It was intended to project local sanitary sewer system needs resulting from local development policy and comprehensive plans, coordinated with regional staging, capacity, location, and treatment quality decisions. In short, the comprehensive sewer plan was the primary tool to ensure local compliance with regional sewer policy decisions.

Implementation of the comprehensive sewer plan concept did not depend entirely upon a local government unit. Implementation was, and is, very much a function of sustained cooperative relationships between the Minnesota Pollution Control Agency, the Metropolitan Council, the Metropolitan Sewer Board, and the individual local government unit. Authority to direct different phases of the sewer plan - its initiation, adoption, amendment, or implementation - was distributed between the four jurisdictions in such a way that cooperative participation of all four agents was necessary to complete the process. Under present coordinative procedures, no individual jurisdiction can initiate and complete the process independently of the other three.

Authority for Review

The legislative requirement of sewer plans of local communities reads as follows:

Subd. 3. MUNICIPAL PLANS AND PROGRAMS. As soon as practicable after the adoption of the first policy plan by the council as provided in section 473B.06, subdivision 5a, and before undertaking the construction of any extensions or additions to its disposal system or the substantial alteration or improvement of its existing disposal system, each local government unit shall adopt a similar policy plan for the collection, treatment and disposal of sewage for which the local government unit is responsible, coordinated with the council's plan, and may revise the same as often as it deems necessary. Each such plan shall be submitted forthwith to the waste control commission for review and shall be subject to the approval of the commission as to those features affecting the commission's responsibilities as determined by the commission. Any such features disapproved by the commission shall be modified in accordance with the commission's recommendations. No construction of new sewers or other disposal facilities, and no substantial alteration or improvement of any existing sewers or

other disposal facilities involving such features shall be undertaken by any local government unit unless its governing body shall first find the same to be in accordance with its comprehensive plan and program as approved by the commission. At the time each local government unit makes application to the agency for a permit to alter or improve its disposal system it shall file with the commission a copy of the application together with design data and a location map of the project.

Implementation

Shortly after the Metropolitan Council adopted its Sanitary Sewers chapter of the Metropolitan Development Guide, the Metropolitan Sewer Board notified all local governments of the requirement of plan submission and approval. The response of local governments was varied; few communities had prepared plans in anticipation of the Council's adoption of its Sanitary Sewers guide chapter. In a letter to the Development Guide Committee on January 19, 1971, the Sewer Board stated:²

The Guide Committee should be aware of the effort made by the Board's staff to obtain Comprehensive Sewer Plans from local governments without too much success this past year. If the Board and the Council are to properly evaluate the needs of local governments, then the Comprehensive Sewer Plan submissions are essential. In the immediate future, the Board wants to evaluate this problem with the view of imposing some restrictions on local governments' sewer system extensions unless a Comprehensive Plan has been submitted and approved by the Board. The Guide Committee's view on this matter would be appreciated.

In November, of the same year, the Metropolitan Sewer Board sent the MPCA a list of 83 communities that had not submitted plans, asking the MPCA to take no action on sewer permit applications from those communities until they had an approved sewer plan. In January, 1972, the MPCA notified all local governments in the Metropolitan Area that it would cooperate with the Sewer Board's request:³

Effective immediately the Agency will not approve any sewer extension plans or permit applications in the Twin Cities Metropolitan Area until the municipality has an approved comprehensive plan or has reached a satisfactory agreement with the MSB to provide one, and the Agency is informed in writing of such comprehensive plan approval or an agreement. All future sewer extension plans or permit applications submitted by a municipality or a consulting engineer shall in the letter of transmittal identify the proposed sewer extension and indicate that it is a part of and conforms to the approved comprehensive sewer plan. Also, the letter should indicate that copies of this transmittal letter were sent to the MSB and Metropolitan Council.

By November 2, 1973, of the 126 local government units wholly or partially within the Sewer Service Area, and 16 local government units outside the limits from which plans had also been requested, 116 had submitted plans to the Sewer Board. Of these, 74 had received final approval by the Board. An additional 5 plans had been approved by the Board as of July, 1975; further approvals by the Board were delayed pending adoption of the Development Framework and Waste Management/Policy Plan chapters of the Development Guide by the Metropolitan Council.

A. Sewer Plan Content Guidelines

In 1970, Metropolitan Council staff turned their attention to the problem of developing criteria for review of local community sewer plans and the preparation of guidelines for use by communities preparing such plans.⁴ The Metropolitan Sewer Act did not prescribe such guidelines, and the Council was concerned that local sewer plans would respond adequately to its policy guidelines in its Sanitary Sewers chapter of the Metropolitan Development Guide, as well as other appropriate policy directives. Among the issues that needed to be addressed in formulating such guidelines were the relationship of the sewer plan to the community comprehensive plan, the necessary level of detail for regional review purposes, and the different review purposes of the Metropolitan Council and the Metropolitan Sewer Board.

Council staff proposed initially that since Council review was not required by law, it seemed desirable to establish a procedure which was essentially a staff review.⁵ However, on December 28, 1971, the Council adopted "Community Comprehensive Sewer Plan Guidelines and Procedures for Council and Sewer Board Review," which generally established Sewer Board responsibility to review for conformance with engineering considerations, and Council responsibility for general development considerations and resource protection. In addition to reviewing the plan for conformance with the Development Guide, the guidelines provided for coordination with Sewer Board programs, the community's own comprehensive plan of development, applicable watershed district or other agency plan, related state or other pollution control, resource protection, recreation or other planning, and the sewer plans of adjacent communities.⁶ The Council proposed a detailed list of items for inclusion in the sewer plan. The Sewer Board, while recognizing the need for uniform evaluation and prompt review, did not feel that step by step guidelines were necessary and preferred to rely on its professional staff rather than a prescribed text.⁷

By 1974, the increasing number of septic tank failures in the Metropolitan Area, and the resulting requests of local governments for extension of metropolitan interceptors to provide central sewer systems for the affected development, caused the Council to realize that on-site absorption systems should receive greater scrutiny. Failure of local governments to include on-site absorption system provisions in their local sewer plan omitted a major cause of local sewer projects and metropolitan program commitments, and a Council staff study recommended the inclusion of on-site systems in the local sewer plan, including local government policy,

regulations, and data on existing problem areas.⁸ The following year, the Council adopted a resolution requesting the MPCA to promulgate on-site sewage disposal system regulations for all local units of government in the Metropolitan Area and mandatory incorporation of these regulations in local sewer plans.⁹ Later, in 1975, the Council amended its sewer plan content requirements to include soils suitability, municipal ordinances, and permit and enforcement procedure in effect for on-site systems.

B. MC-MWCC Coordination

Although the Metropolitan Council has been engaged in comprehensive sewer plan review since 1970, it has never established a formal agreement with the Metropolitan Sewer Board to share review responsibilities. The Council review role relied upon staff cooperation at the Sewer Board. Accordingly, while the Council formally used the language of "review and approval" to describe its action on local sewer plans, it only recommended a plan to the Board with suggested conditions of approval.

The lack of an agreement between the two agencies was confusing in that the Council's act of approval was really one of recommendation, and also the Council's conditions of approval were not binding upon either the Board or upon local governments. Normally, when the Council approved a plan it placed two classes of conditions upon its approval: general and specific. The general condition of approval applied to all sewer plans in that no amendment to the plan could be made without approval of the Sewer Board; specific conditions applied to a particular plan and were unique to that locality. In addition, recommendations that a community adopt a wetlands, marsh, and shoreland protection ordinance, and that floodplains be protected from development, were included in all reviews. However, the staff study referred to earlier concluded that the procedure was working well and that the Sewer Board routinely incorporated Council recommendations and conditions of approval into the Board's own resolution of approval, and subsequent notification to the local community.

Until late 1975, however, a major problem of coordination involved interim review procedures. The Council had no guidelines for the Commission to follow in the event that a local government wanted to construct a local sewer line while its plan was under review. Since uncertainty about regional projects or plans of adjacent communities could extend the review period within the Council to a year or longer, it was not uncommon for the Sewer Board to receive requests to approve single extensions during that review period. At times, Sewer Board approvals of such requests ran counter to Council policy, and considerable staff negotiation would be necessary between the two agencies.

Furthermore, there was no established procedure for revision of approved sewer plans by the Council, although the Board had given such approval to a half dozen community sewer plans by 1975. Usually, after receiving the amendment requests, the Sewer Board notified Council staff informally to determine if the Council wanted to undertake a formal review. No formal reviews were ever made.

The amended sewer plan requirements adopted by the Council in 1975, MCP 9, Local Sewer Policy Plan, addressed this issue by requiring all proposed amendments to the plan be submitted to the Council and the Commission for review and approval.

C. Regional-State Coordination

Coordination with the State of Minnesota on comprehensive sewer plan review was important for two reasons. First, to ensure implementation of regional policies through the authority of the State, and second, to strengthen the planning efforts of other governmental jurisdictions with related governments. The key state agency in the review of local sewer plans was the Minnesota Pollution Control Agency.

The Metropolitan Council and the Metropolitan Sewer Board have relied substantially upon the permit granting powers of the MPCA to ensure that local sewer construction complies with Council and Sewer Board policies and plans. The MPCA requires all proposed construction, operation, or use of a sewer system, extension and/or sewage, industrial waste or other waste treatment works or disposal system to have an approved permit issued by the MPCA. A private individual may initiate an application for a permit, but such application must be accompanied by a statement from the local government in which the facility is located promising to assume ownership of the proposed facility. The permit is then issued to the local government. This experience has posed several problems.

First, most communities in the Metropolitan Area did not forward copies of their sewer plans to the MPCA as requested by the Sewer Board; as of July, 1974, the MPCA had received only 32 of the 116 actually submitted to the Board. Without a copy of the plan, the MPCA was unable to determine the consistency of the permit application.

Second, the plans on file with the MPCA were the plans submitted for review to the Board, not as finally approved by the Board. Substantial modifications may take place in the Council-Sewer Board review, which would not be reflected in the MPCA copy.

Third, procedures used by the two regional agencies to notify the MPCA about sewer plan approval ignored the organizational split within the MPCA between planning and permit issuance functions. Council and Sewer Board referral comments forwarded to the MPCA went to the Planning Section, rather than the Facility Section, which reviews and issues the permit application.

Fourth, in the absence of a copy of the approved local sewer plan, the MPCA relied solely upon the face value of the applicant community's statement that its application conforms to its approved sewer plan. The MPCA had no way of verifying such conformance by using information on file with its office. This lack of information became especially significant when the MPCA received a statement from the local government that its permit request was in "substantial conformance" with its approved sewer plan.

Furthermore, some consulting engineering firms filed the statement routinely without verification with the approved plan first, as evidenced by MPCA receipt of several permit applications from consultant engineers for communities outside the Metropolitan Area, assuring the MPCA that the project was in conformance with the sewer plan approved by the Sewer Board.

Fifth, the MPCA relied upon the Council and Sewer Board to advise it if a permit should not be issued because of non-conformance with approved plans. Until 1975, the Council and Sewer Board received only a copy of the community's transmittal letter, but not copies of its project plans. The Council normally did not review such notices, and the Sewer Board did not have the information to make such review. As of 1975, the Council staff had never requested the MPCA to deny a permit application, and the Sewer Board had done this only infrequently. With the Metropolitan Reorganization Act of 1974, however, all local governments were required to file a copy of the design data and a location map of each application with the Sewer Board, and the Board instituted the procedure of advising the MPCA on all such applications, as specified in the Council's procedural guidelines adopted in 1975.

Finally, none of the three agencies had been able to devise a satisfactory means of monitoring approved sewer construction, or unapproved construction for that matter, to determine if approved sewer plans were being followed.

D. Regional-Special District

When the Council began reviewing local sewer plans in 1970, an issue of concern was how to coordinate local sewer systems of municipalities with the flood prevention activities of watershed districts in the Metropolitan Area. By 1971, there were seven such districts entirely within the seven-county boundaries; these districts had the power to prepare flood plain and open space and greenbelt maps that would be available to counties and municipalities for inclusion in local flood plain ordinances. Areas designated as flood plain must conform to the standards prepared by the Minnesota Department of Natural Resources. In addition, the district was empowered to adopt an overall plan and, in the absence of local regulations, adopt ordinances governing the placement of fill, structures, contour alteration, encroachment, etc. within a flood plain.

By October, 1971, the Council, upon review of a number of municipal sewer plans, had noted the need for more definite coordination among the Council, watershed districts and individual municipalities to assure preservation of flood plains and related open space lands.¹⁰ Consequently, the Council advised the districts of its willingness to closely and cooperatively work with them in their effort to plan for the development and protection of their watersheds. As a result, as part of its standard referral procedures, the Council notified watershed districts when it had received a local sewer plan review, to provide the district with an opportunity to determine if the community was proposing to sewer areas which in the district's overall plan should be protected from development. District

recommendations would then be incorporated in staff referral comments to the Council, and the Council would recommend to the Sewer Board that the local government adopt flood plain regulations in accordance with district maps and standards. A major difficulty with this arrangement was that watershed districts found it difficult to undertake extensive review of sewer plans with their limited budgets and reliance upon consulting engineers. A staff study of three watershed districts in the Metropolitan Area in 1973 reviewing the local sewer plan notification and review process found that while the Metropolitan Sewer Board had notified districts where significant area was under review, the three districts had failed to comment to the Council on most of the plans.¹¹ The Council has incorporated its recommendations on flood plain protection and cooperation with the watershed district in its review, nevertheless.

E. Local Sewer Plan Requirements

The revised local sewer plan requirements, MCP 9, set out the procedural and content requirements of the Council which would permit it to ensure compliance with its policy through corresponding actions of the Metropolitan Waste Control Commission and local government units. The planning requirements emphasized consistency with local comprehensive plans, plans of the Minnesota Municipal Commission for orderly annexation, as well as regional development policy. These guidelines are printed below.

"MCP 9 Local Sewer Policy Plan

General Discussion

The Metropolitan Reorganization Act of 1974 requires each local government in the Metropolitan Area to prepare and adopt a local sewer policy plan similar to the Council's policy plan as soon as practicable after the adoption of the initial policy plan by the Council. The local plans and amendments to this local plan are to be submitted to the Metropolitan Waste Control Commission for review and approval. Such plans should include the collection, treatment and disposal of all sanitary sewage including on-site sewage disposal facilities.

The local sewer policy plan is an important means of determining the impact of local systems upon the regional system as well as future system expansions or modifications. The Council adopts the following procedures for its participation in the Commission review of local comprehensive sewer plans to ensure conformity to regional development policy and metropolitan sewer system expansion.

A. Handling Procedures

1. The Commission shall submit local sewer policy plans and proposed amendments thereto to the Metropolitan Council for review and comment, before the Commission takes final action on a plan. The

Referral Administrator will acknowledge receipt and forward the plan to staff for review.

2. After staff review, a staff referral memorandum will be forwarded to the Commission discussing the local sewer plan and its relationship to regional development policy. The Commission shall arrange a joint meeting of Commission and Council staff with the affected local government units to discuss Commission and Council staff comments on the local sewer plan.
3. Any subsequent meetings initiated by Council or Commission staff with the local government units shall include mutual notification between the Council and Commission. To the extent practicable, the Commission shall coordinate all meetings initiated by the Council or Commission staff with local government units. The Commission shall be responsible for notifying all parties and arranging such meetings.
4. An appropriate committee of the Council will review the plan and staff comments, and forward a recommendation to the Council. The Council will review the committee findings and then transmit its recommendations to the Commission.
5. Before approving any local sewer policy plan not in conformance with the Council policy plan and the Development Framework, the Commission must first receive notification that the Council has amended the policy plan to accommodate this variation.
6. The Council, in those cases where review of the entire sewer policy plan cannot be made because information regarding adjacent local governments or proposed regional facilities is either uncertain or unavailable, shall reserve comment on those features and make its recommendations to the Commission only on those plan elements which, in its judgement, are clearly understood. The Commission should condition its approval of the local sewer policy plan accordingly.
7. Subsequent to such review and approval by the Council and Commission, any local government proposing to alter or improve any existing sewers or other disposal facilities in a manner not specifically approved by the Commission in its review of the local sewer policy plan, shall submit its proposal to the Commission for review as a plan amendment before application to the MPCA for a sewer construction permit.
8. All amendments to an approved local sewer policy plan shall be reviewed by the Council and Commission in accordance with the above procedures.

B. Content of Local Comprehensive Sewer Plans

1. Local government units are expected to use the 1980, 1990, and 2000 population and employment data included in the policy plan for overall direction on development. If a local unit of government determines that the programmed availability of metropolitan sewer service conflicts with local need, it may request the Council and Commission to consider amendment of the policy plan or development program. Such requests will be considered pursuant to administrative and operational procedures established by the Council.
2. The local sewer policy plan submitted to the Commission for review should be consistent with the adopted comprehensive plan, if any of the local government unit.
3. The local sewer policy plan should contain the following information at a level of detail sufficient to describe the existing and future sewer issues and recommend solutions and appropriate facilities.

a. Community Physical Facilities

Surface water drainage districts, including area or subarea boundaries, area of district and subdistricts in acres, drainage direction, points of collection, ponding areas, rivers, streams, floodplains, ponds, lakes, and wetlands.

b. Existing and Proposed Sewerage Facilities

1. Location, size, capacity, and design flows for existing and proposed laterals and trunk sewers, lift stations, forcemains and septic tank pumpage and other waste disposal sites in the collection system.
2. Any sewerage facilities being used jointly with another local governmental unit indicating area of service, the number of connections and service flow volume.
3. Location, type and capacity of all existing treatment facilities for public use whether municipally or privately owned should be identified including their appropriate National Pollution Discharge Elimination System (NPDES) permit.
4. Existing sewered population and estimated increase to sewered population, by year, for the next five years.
5. Existing and projected (for next five years) sewered connections and/or residential equivalent.

c. Community Development

1. Description and location map of existing sewerage problems, including on-site sewage disposal systems, malfunction problems and needs associated with continued operation of existing treatment facilities, whether municipally or privately owned and sewer system capacity limitations.
2. Existing land use, including existing (where applicable) proposed streets, highways, open space, etc. consistent with an adopted comprehensive community plan.
3. Existing and projected ultimate zoning and land use, including designated open space, floodplain and similar restricted areas.
4. Any proposed changes in governmental boundaries affecting the community, including any areas designated for orderly annexation by the Minnesota Municipal Commission.

d. Design Considerations for New Sewerage Facilities

1. Design time period and design population.
2. Design per capita flows--average and maximum.
3. Minimum design standards for the control of Inflow/Infiltration into the sewer system.
4. Types, amounts and strength of waste water including domestic, commercial, industrial and institutional as well as identification of individual industrial dischargers whose average daily flow exceeds 50 thousand gallons or exceeds five per cent of the total local governmental flow or contains toxic wastes.
5. Sewer system design data for areas of service outside the community boundaries.
6. Time schedule for construction by year for the first five-year period and by five-year periods for twenty years, including a local sewer construction program adopted by the local government unit. Connection to the metropolitan and/or local system is required within two years of service availability consistent with the Council policy plan and the Waste Control Commission rules and regulations.
7. Time table for upgrading all non-municipal treatment plants that do not meet state effluent and water quality standards as identified in the NPDES permit or for terminating plant operations.

e. On-Site Sewage Disposal Facilities

1. Areas of the community where on-site systems are permitted as temporary and permanent facilities delineated on a map by SCS soil class including high ground water table, steep slopes and underlying rock close to ground surface.
2. Regulations and ordinances adopted by the local governing body for design, installation, operation and maintenance of on-site sewage disposal systems.
3. Administration procedure of permit to install system including fees, licensing and bonding of installers.
4. Enforcement procedure of construction including inspection policy and personnel qualifications to insure construction in accordance with adopted standards."

Footnotes

¹Laws 1975, Chapter 13, Section 81.

²Letter from Milton Honsey to the Metropolitan Development Guide Committee, Metropolitan Council, January 19, 1971, "Proposed Policies and Guidelines Concerning Change Orders, Comprehensive Sewer Plans and Extension of Interceptors."

³Minnesota Pollution Control Agency, January 19, 1972, Letter of notification to local governments.

⁴Memorandum from Robert Jorvig to Richard Dougherty, October 14, 1970, "Comprehensive Sewer Plans for St. Louis Park, Deephaven and Maple Grove."

⁵Memorandum from Robert Einsweiler, Planning Director, to Barry Peterson, October 1, 1970, "Guidelines for Sewer Matters."

⁶Metropolitan Council, December 28, 1971, "Community Comprehensive Sewer Plan Guidelines and Procedures for Council and Sewer Board Review."

⁷Letter from Milton Honsey to Metropolitan Development Guide Committee, supra.

⁸Memorandum from Ian Traquair Ball to Robert Jorvig, July 23, 1974, "Review of Comprehensive Sewer Plan Procedures."

⁹Metropolitan Council, April 24, 1975, Resolution No. 75-24, "Metropolitan Council Position with Respect to On-Site Sewage Disposal Systems."

¹⁰Metropolitan Council, October 28, 1971, Report of the Referral Committee, "Communications to Watershed Districts Regarding Coordination

of Planning Effort."

¹¹See Council staff memorandums: Memorandum from Alda Peikert to Ian Ball, December 3, 1973, "Prior Lake - Spring Lake Watershed District Coordination Comprehensive Sewer Plans;" Memorandum from Robert Ranta to Ian Ball, January 8, 1974, "Riley - Purgatory Watershed District: Coordination with the Watershed District on Comprehensive Sewer Plans;" Memorandum from Alda Peikert to Ian Ball, November 12, 1973, "Vailey Branch Watershed District Coordination on Comprehensive Sewer Plans."

ORDERLY ANNEXATION REVIEW

In 1959, the Minnesota legislature created the Minnesota Municipal Commission (MMC) as an administrative quasi-legislative commission to hear and decide incorporation, consolidation, and annexation matters relating to municipal and township government. The Commission has the authority to approve or deny all proposed incorporations and consolidations of township and municipal governments, and most annexation proceedings as well. Since 1959, the Commission has developed policy guidelines to complement the specific guidelines contained in its statutes. Broadly stated, the Commission has sought to accomplish organized urban growth through the promotion of comprehensive planning, programming of public services, and orderly municipal boundary adjustment.

In its earlier days as the Twin Cities Metropolitan Planning Commission and since the Metropolitan Council Act was passed in 1967, the Metropolitan Council has provided advice and recommendations to the Minnesota Municipal Commission at its request on a large number of incorporation, consolidation, and annexation proceedings within the Metropolitan Area. Council studies and testimony for the Commission have focused on those regional policy and program decisions which would be relevant to proposed local government boundary changes. The Metropolitan Council Act specifically provides that the Council may conduct studies of the feasibility of annexing, enlarging, or consolidating units of local government in the Metropolitan Area, and may participate, if it so chooses, as a party in any proceedings involving a change in a boundary of a government unit in the Metropolitan Area. To date, the Council has provided testimony to the Commission in more than a dozen proceedings.

Orderly Annexation

A major tool employed by the Commission to carry out its policy of organized urban growth is orderly annexation. Orderly annexation is increasingly replacing the difficult hearing process as the basic vehicle for boundary adjustment in Minnesota. The process begins with a joint resolution of the township, from which land is being annexed, and the municipality, which is annexing the property in question; the resolution designates an area as in need of orderly annexation, and it confers jurisdiction upon the commission to order annexations gradually over the years as the property develops and as it can be served by the municipality.²

Thereafter, annexations can be initiated within the orderly annexation area as the property actually develops. This process has the advantage of eliminating expensive and bitter annexation hearings, and promotes cooperation and long-range mutual planning. Boundaries are adjusted in an orderly, programmed manner, and rural property owners are not forced to pay city taxes or assessments prematurely. Taxes in areas annexed are increased gradually over a three to five year period, from the town mill rate to the city mill rate. Planning and zoning are done jointly by the city, county, and township, and unless otherwise agreed, the municipality

is authorized to regulate subdivisions in the areas. In particular, joint resolutions can focus on unique local problems, such as timing, taxes, pollution, and utility service extensions.

Council Involvement

In 1972, a large number of piecemeal annexation disputes occurred before the Minnesota Municipal Commission, many of which were argued over the issue of sewer service availability. As a result, Council staff began to examine ways in which MMC annexation policies and Council development guidelines could be made complementary.³ One village manager stated the issue to the Municipal Commission as follows:⁴

If unincorporated townships are allowed to run sewer lines adjacent to an incorporated area and into a metro treatment works the incentive for those people to become annexed has for all practical purposes, been eliminated. And naturally any area farther out cannot be annexed without first annexing the adjacent area.

Council staff concluded that future review of comprehensive sewer plans of local governments should address the issue of service expansion and orderly annexation, and that any testimony before MMC proceedings by the engineering staff of the Waste Control Commission should be consistent with the Council's regional development policy.

Subsequently, in December, 1972, the Council incorporated its support for the concept of an orderly program of annexation coincident with the staging of sewer service extension, by making the following recommendations to the Metropolitan Waste Control Commission in the review of the City of Cologne comprehensive sewer plan:⁵

The ability to provide sewer service to adjacent unincorporated areas has been one of the prime arguments used in annexation proceedings. The Minnesota Municipal Commission, in its efforts to provide for orderly extension of municipal boundaries as urban development occurs, has expressed its intention to discourage piecemeal annexation. A long-range boundary solution is more desirable and procedures, such as orderly annexation, are available to bring about long-range solutions...

The areas shown in the Cologne CSP are relatively small. No overall plan of service based on growth patterns or watersheds has been presented. If Cologne intends on annexing parts of Benton Township, then a program of orderly annexation should be developed by both the town and the village. Both sewer planning and annexation should be planned for a longer time frame, for example until 1985.

In its recommendation to the Metropolitan Waste Control Commission, the Council included the following comment:

Cologne and Benton Township should develop a program of orderly annexation, based on long-term growth patterns and on watersheds. The 1972 Cologne corporate limits will be the service area boundary; however, if an orderly annexation is worked out between the communities and the Minnesota Municipal Commission, these boundaries may be amended.

A similar provision was made in 1974 upon review of the comprehensive sewer plan of the city of Watertown, adjacent to the township of Watertown.

Coordination with Other Management Tools

The extent to which comprehensive sewer plan review, orderly annexation, and county zoning can be coordinated for environmental management purposes is evident in the zoning ordinance of Carver County, one of the most rural counties of the seven-county Metropolitan Area. The revised ordinance provided for a "Restricted Agricultural District, A-1," and encouraged protection of environmental quality as well as tighter development management.⁷

4.2 The following minimum requirements shall be observed subject to additional requirements, exceptions, and modifications set forth in other sections of this ordinance:

1. Land which is abutting an incorporated area and of such elevation that the sanitary sewer service of said community could be extended to serve development of said land, that such sewer extension would be in agreement with said community's comprehensive sewer plan, may have a lot size of 15,000 sq. feet, 100 feet in width, provided:
 - a. The land is so designed that it conforms with the extension of the community and of design approved by said community.
 - b. The sanitary sewer is reasonably expected to be available for service in not more than five years. During such interim period, 30,000 sq. ft. lots shall be required with 200 ft. of width. Said 30,000 sq. ft. lot may consist of two 15,000 sq. ft. lots.
 - c. The on-site sewer system used in the interim shall be so designed that the service can be easily changed and extended to the proposed sewer lateral.
 - d. The entire site to be developed is intended to be annexed at such time that sewer or other municipal services are made available by the incorporated area and such intention has received favorable resolution from the township board.

This Council policy on supporting the Minnesota Municipal Commission's

use of orderly annexation in the Metropolitan Area was reaffirmed when the Council adopted its Development Framework chapter of the Metropolitan Development Guide.

In addition, when the Council revised its procedures and content guidelines for local sewer plan review in 1975, it required local governments to indicate in their sewer plan any proposed changes in governmental boundaries which would affect the provision of local sewer service.

Footnotes

¹Laws 1959, Chapter 414, Section 414.032.

²Minnesota Municipal Commission, 1974, Annual Report, p. 4.

³Memorandum from Ian Traquair Ball to Rey Boezi, January 27, 1972, "Municipal Annexations and Comprehensive Sewer Planning."

⁴Ibid., p. 1.

⁵Metropolitan Council, December 22, 1972, Report of the Referral Committee, "Comprehensive Sewer Plan - Cologne," p. 3.

⁶Metropolitan Sewer Board, July 18, 1973, Resolution No. 73-121.

⁷Carver County, June, 1974, Carver County Zoning Ordinance, p. 34.

COUNTY SOLID WASTE REPORT APPROVAL

With the passage of the Solid Waste Disposal Act¹ in 1969, the adopted policies of the Solid Waste chapter of the MDG were expected to direct the location and use of disposal facilities in the Metropolitan Area. The regulatory policies in the guide chapter were consistent with those regulations adopted by the MPCA, and in some cases the policies were more stringent than the MPCA regulations.² Public and private disposal facilities were bound by all applicable policies and regulations on the Development Guide chapter.

The Solid Waste Disposal Act also required each metropolitan county to prepare a county solid waste disposal report which would address implementation planning by county consistent with the Council's adopted Solid Waste guide chapter. The county report was required to include the following items:

1. Description of any solid waste disposal site or facilities which the county owned or planned for acquisition to implement the Council's plan;
2. The planned method, estimated cost and time of such acquisition;
3. A description of any necessary improvements to make the site or facility suitable for solid waste disposal;
4. Proposed procedures for the operation and maintenance of any such site or facility;
5. An estimate of the annual cost of operation and maintenance of any such site or facility;
6. An estimate of the annual gross revenues;
7. A proposal for the use of each site when filled;
8. A complete survey of existing or proposed municipal or private solid waste disposal sites and facilities in the county, with information on items 1 thru 7;
9. A statement of the extent to which they will or may be used to implement the Council's plan.

As part of its solid waste report, each county must also prepare and submit to the Council for approval a description of the county hazardous waste ordinance, the county hazardous waste generator licensing procedures, proposed procedures for implementing the system, and an estimate of the total number of hazardous waste generators.

By law the Council must approve the county report if it is in

accordance with its solid waste plan and, after Council approval, it must be implemented by the county. Counties are empowered by the Act to undertake any of the following actions in order to implement the approved solid waste report:

1. Acquisition rights by the counties through purchase, lease, gift, or condemnation; compliance to any zoning ordinance adopted after April 15, 1959 is not required.
2. Issuance of bonds.
3. County operation and maintenance of solid waste facilities, including charges for their use.
4. Contracting by the county with another agent for operation and maintenance of disposal sites.
5. Adoption of ordinances governing the operation of disposal sites or facilities in the county by any local government unit or person.
6. Joint or cooperative action between government units.
7. Disposal of property previously used or acquired for solid waste disposal purposes, after Council review and comment.

As of June 24, 1971, each county in the Metropolitan Area had submitted a disposal report and had received Council review and approval. Subsequent amendments to the county reports were submitted by three counties, all of which were reviewed and approved by the Council. One county, for example, amended its report to provide additional disposal facilities, while another amended its report to reflect initial investigation of solid waste collection management.

After approval by the Council, no metropolitan county, local government unit or person shall acquire, improve or operate any solid waste disposal site or hazardous waste disposal site or facility in the Metropolitan Area except in accordance with the plan.

Footnotes

¹ Laws 1975, Chapter 13, Section 11 and 138.

² Memorandum from Ray Thron to Frank Lamm, April 5, 1973, "Implementation of Solid Waste Disposal Act, Chapter 847, 1969 Session Laws."

SOLID WASTE FACILITY PERMIT APPROVAL

The metropolitan-wide solid waste disposal system authorized by law in 1969, was an intergovernmental effort wherein the Metropolitan Council, the Minnesota Pollution Control Agency, and the seven counties in the Metropolitan Area each had specific responsibilities for planning, regulating, and operating such a system. Section 1 of Chapter 847, 1969 Session Laws, The Solid Waste Disposal Act, authorized "The Pollution Control Agency to regulate the location and operation of Solid Waste Disposal sites and facilities in the Area...." It also authorized "the Metropolitan Council to carry on a continuous long range program of planning with respect to, and regulate the location and use of, solid waste disposal sites and facilities in the Area...." And finally, it authorized "the counties in the Area to acquire, construct, operate, maintain, and regulate solid waste disposal sites and facilities."

Procedural Requirements

The Council adopted "Procedures and Administrative Guidelines"¹ as an intergovernmental effort to implement the comprehensive plan. These procedures were to assist the counties in the preparation of their disposal reports, and included:

1. Procedures for obtaining a permit to operate a solid waste disposal facility.
2. Roles of different agencies in the enforcement of standards and operating regulations.
3. Metropolitan Council procedures.
4. Specific guidelines for the metropolitan counties:
 - a. Development of a county report.
 - b. Outline of a county solid waste disposal report.
 - c. Outline of a county solid waste disposal ordinance.
 - d. Alternatives for organization and financing of solid waste disposal facilities.
 - e. Procedures to maintain a continuity of service.
 - f. Procedures for closing down a landfill operation.

By law, all persons or governments operating or intending to operate a solid waste disposal site, or transfer station or other disposal facility within the seven-county Metropolitan Area were required to obtain a permit from the Minnesota Pollution Control Agency. Before a facility could be operated, approvals from three sources were necessary:

1. The local municipality, where required by municipal ordinances.
2. The county, as an integral part of the county solid waste

disposal operations. A county license or permit is required by county ordinances.

3. The Pollution Control Agency, indicating compliance with standards and regulations assuring protection of the environment. The PCA permit application must also be reviewed by the Metropolitan Council which must find that the application is in conformity with the metropolitan plan if a permit is to be issued.

Council Review

Since the law was passed, the Council has reviewed over fifty permit applications to determine their conformance to the regional solid waste plan. Applications have included such facilities as transfer stations, sanitary and disposal sites, leaf compost landfills, demolition landfills, and various resource recovery facilities. Applicants have included private and public agents.

The Council has used its reviews of the permit applications as an opportunity to identify environmental as well as waste disposal issues which are of regional concern. In particular, Council review has served to coordinate the response of various local government and special district plans and regulations which might affect, or be affected by, the proposed facility. For example, in 1974, an applicant sought an MPCA permit to reopen an old landfill for demolition material which was closed down in 1970 because of MPCA regulations. Staff review identified Council environmental policy that would conflict with the proposed facility, including problems of potential leaching, proximity to a lake, variance requirements by a municipal ordinance protecting wetlands, and lack of a reuse plan. Subsequent meetings with the applicant, the county, the municipality, and the watershed district identified conditions under which the facility could operate without violating existing regulations.² In its final review of the application, the Council approved the permit application with the following recommended conditions to the MPCA:³

1. Filling shall be confined to the existing fill area, and an expansion of up to 20 feet from the present boundaries of the existing fill area may be utilized for purposes of constructing a retaining berm to prevent lateral movement of leachate from the old fill.
2. That additional area beyond the bermed area not be used for demolition landfill or related operations.
3. That the applicant provide an end-use plan acceptable to the city.
4. That a groundwater quality monitoring system be provided and if leaching occurs, the applicant provide a system to collect the leachate and dispose of it in a manner consistent with the Development Guide of the Metropolitan Council.

Footnotes

¹Metropolitan Council, July 30, 1970, "Solid Waste Management Procedures and Administrative Guidelines."

²Metropolitan Council, October 4, 1974, Report of the Environmental and Transportation Committee, "Eisinger Demolition Landfill."

³Letter from John Boland to Blaine Seaborn, Minnesota Pollution Control Agency, October 16, 1974.

AIR QUALITY PERMIT REVIEW

In 1972, the Minnesota Pollution Control Agency adopted Air Pollution Control Regulation APC-3 as part of its effort to improve and control the quality of air within the state. This regulation provided that no new installation, reconstruction, or alteration of any stationary process, fuel-burning equipment, refuse-burning equipment, or control equipment could be undertaken without obtaining an installation permit from the MPCA. The regulation also provided that the Agency shall request the Metropolitan Council to submit its recommendations as to whether the site location of the planned installation is in accordance with the Council's long-range development plans and objectives, if the proposed installation is within the Metropolitan Area, and may have a combined air contaminant or pollutant emissions in excess of one hundred tons per year.

The Minneapolis-St. Paul Air Quality Control Region established by the EPA with the cooperation of MPCA encompasses the same seven counties that are within the planning jurisdiction of the Council. The Council has a legislative charge to engage in a continuous program of research and study concerning the control and prevention of air pollution, and in correspondence to the MPCA in 1972, the Council stated that it would cooperate with the MPCA in reviewing and commenting on installation permits.¹

The Council has had one such referral since APC-3 was adopted. In 1972, Northern States Power Company sought a permit from the MPCA for the construction of an 8-unit oil fired gas turbine operated peak power generating plant. NSP planned the first four units to be in operation by May, 1974, with the remaining four operational at a future unscheduled date.

The Council reviewed the proposed plant in terms of its location, proximity to a county park, ambient air quality effect, noise levels, solid and liquid waste discharge, and projected development. It concluded that the application for the installation permit was in accordance with the intent of the Metropolitan Development Guide, and notified the Minnesota Pollution Control Agency accordingly.

MPCA Proposal

In 1973, when the Minnesota Pollution Control Agency considered amending Regulations APC-2 and APC-3, the Council reviewed the proposed amendments with respect to their relationship to the Metropolitan Development Guide and the Development Framework staging guidelines. The Council recommended that provision be made for staging of the utilization of air resources. With respect to the proposal to increase the threshold of emissions for outside agency review purposes through a mandatory public hearing, the Council noted:²

[this] actually diminishes much public participation, particularly considering that the existing regulation, APC-3 (paragraph d,

pp. 10-11), calls for Metropolitan Council comments for facilities that have one hundred (100) tons of a combined air contaminant or pollutant emission and that during the past 18 months there has only been one such facility for which the Minnesota Pollution Control Agency sought comments from the Metropolitan Council. It may be appropriate to establish the "review level" at 100 tons for the Twin Cities Metropolitan Area and at 1000 tons for out-state areas.... It is recommended that the public participation process, including those comments as sought from the Metropolitan Council be retained for those facilities which emit 100 tons per year of any single pollutant or combination of air pollutants.

The Council also noted that the air quality assessment of a complex source was only one criteria in an array of other environmental issues which might be assessed and reviewed by various agencies, and the EIS mechanism might be a more efficient review and coordination mechanism where multi-agencies and issues were addressed. The Council urged the MPCA to view implementation planning for air quality as part of a larger environmental and social management strategy, rather than as a single focus environmental concern. The threshold was changed to the 1,000 ton criteria, nevertheless.

Footnotes

¹Metropolitan Council, June 16, 1972, Report of the Referral Committee, "NSP Blue Lake Generating Plant."

²Letter from John Boland to Grant Merritt, Executive Director, MPCA, December 14, 1973, "Proposed Amendments to Minnesota Regulations APC-2 and APC-3."

A-95 REVIEW

The A-95 review established by the federal Office of Management and Budget required an applicant for certain categories of federal funds to notify the regional clearinghouse that an application was being prepared. This notification, which was to include a summary description of the proposed project, was to permit the reviewing agency to identify potential problems, conflicts, and improvements before full federal review was underway. The review requirements vary between funding programs and reviewing agencies.

When the Metropolitan Council Act was passed by the legislature in 1967, the Act gave the Council the authority to review all applications for federal funds from local governments and metropolitan agencies in the Twin Cities area.¹ Since that time, the Council has acted as the Regional Clearinghouse.

Standard Review Procedure

The normal procedure of the Council has been to review a proposed project to determine if it had Area-wide significance.² If it had little or none, a letter indicating waiver of interest would be forwarded to the applicant. If, however, the Council found the proposed project to have Area-wide significance, it would prepare comments and recommendations for transmittal to the applicant. These comments and recommendations might include information about the following:³

1. The extent to which the project is consistent with or contributes to the fulfillment of the policies and plans of the Metropolitan Development Guide.
2. The extent to which the project significantly affects the environment.
3. The relationship of the proposed project to the plans of other local units of government and agencies and any support or objections indicated by affected governmental jurisdictions.

A large number of A-95 reviews conducted by the Council have had environmental considerations emerging as the foremost policy issues.⁴ In general, Council staff have indicated satisfaction with the use of this review tool for environmental management purposes, as the following comment indicates:⁵

Under "normal" A-95 review, the Metropolitan Council is confident that most projects for federal funding that receive unfavorable regional clearinghouse review will not be approved. Input by the applicant, comments by others, and Metropolitan Council staff assessment are weighed carefully, and the Council decision is made with the knowledge that its action will be a major factor in the decision of whether or not the project will be implemented as

proposed.

Footnotes

¹Laws 1975, Chapter 13, Section 17.

²Metropolitan Council, 1972, Referral Manual, p. 7.

³Ibid., p. 8.

⁴For more detailed examination of the Council's use of A-95 review for environmental management purposes, see the forthcoming study by Michael Gleeson, University of Minnesota, under this EPA grant.

⁵Lamm, Frank, June, 1975, "Applying Environmental Impact Statements to Metropolitan Area Resource Projects," paper delivered at the 95th Conference of the American Water Works Association.

COMPREHENSIVE PLAN REVIEW

Comprehensive plan reviews have provided the Metropolitan Council with one of its most effective vehicles for relating its environmental policy decisions to local long-term plans and programs. As such, the review is a major planning and coordination tool for environmental policy management involving several levels of government, as well as varying governmental program and management mechanisms, such as regional capital programs, local sewer plans, sewer service boundary, solid waste disposal, and environmental impact and assessment review. Authority to review local comprehensive plans is in the Council act as follows:

Council Review; Comprehensive Plans, Land Use Plans

Each city, town, and county all or part of which lies within the metropolitan area, shall submit to the metropolitan council for written comment and recommendation thereon its proposed long-term comprehensive plans, including but not limited to plans for land use. The proposed plans shall be submitted to the council after their approval by the planning commission of the local government unit and before final approval by the governing body of the city, town or county. The council shall maintain such plans in its files available for inspection by members of the public. No local government action shall be taken to place any such plan or part thereof into effect until 90 days have elapsed after its submission to the council. Promptly after submission, the council shall notify each city, town, county, or special district which may be affected by the plans submitted, of the general nature of the plan, the date of submission, and the identity of the submitting unit. Political subdivisions contiguous to the submitting unit shall be notified in all cases. Within 30 days after receipt of such notice any governmental unit so notified or the local governmental unit submitting the plan may request the council to conduct a hearing at which the submitting unit and any other governmental unit or subdivision may present its views. The council may attempt to mediate and resolve differences of opinion which exist among the participants in the hearing with respect to the plans submitted. If within 90 days the council fails to complete its written comments and recommendations the plans shall be deemed approved and may be placed into effect. Any major alteration to a plan subsequent to the council's review shall be submitted to and acted upon by the council in the same manner as the original plan. The written comments and recommendations of the council shall be filed with the plan of the local government unit at all places where the plan is required by law to be kept on file.

Council Review

Comprehensive plans reviewed under this statute have been used as background information in reviewing grant requests referred to the Council under state and federal law and for consistency with the Metropolitan

Development Guide, Council policy plans, local sewer plans as approved by the Council, and various other planning policies and programs adopted by the Council.² The comprehensive plan review, however, does not serve as the official review in cases where such review is legally required by various other bodies. For example, review of local sewer plans by the Metropolitan Sewer Board and the Metropolitan Council is a separate review procedure, apart from the comprehensive plan review of the same community.

Since 1967, the Council has received almost a hundred comprehensive plans and major plan amendments from local governments, for review and comment. As useful as the review process is for coordinating public policy and programs at different government levels, several problems and limitations have been noted, the most common of which are:³

1. Municipalities and counties are not required to prepare, adopt, and implement a comprehensive plan;
2. Elements which must be included in the plan have not been established by either the Council or the legislature;
3. Implementation methods may be suggested upon review but are not required;
4. Implementation methods used by a municipality are not required to be based upon an adopted plan;
5. Metropolitan concerns and development concepts are commented upon in the review process but are not binding upon municipalities and counties.

In spite of that, the Council still uses the comprehensive plan review as the major opportunity to address local actions which may result in regional consequences and responsibilities. For example, in a review of the City of Hamm Lake Comprehensive Plan, the Council found that the plan did not adequately address the problem of inadequate septic tank systems. The Council commented in its review as follows:⁴

How does the city plan to ensure that septic tanks will operate adequately on a continuing basis? The plan and the draft subdivision ordinance do contain adequate provisions relating septic tank installation to soil suitability. However, in the plan, the city states that by alternating drainfields, the useful life of a septic tank can be prolonged to 25 years. Both the plan and the ordinance require that suitable area for two additional drainfields be available for each house. Yet, neither plan nor ordinance establish that additional drainfields must be installed and utilized from the beginning nor under what conditions in the future they will be required. Further steps that should be taken by the city to ensure septic tank viability include:

- establishing a permit requirement for septic tank

Installation.

- requiring certification by a registered engineer that the on-site system will function adequately as installed if properly maintained and operated.
- establishing a monitoring and inspection program for septic tanks and wells.
- requiring maintenance according to certified engineering specifications.
- defining what remedial steps will be taken should a septic tank fail or pollution occur and assigning responsibility for this.
- establishing a public education program for septic tank operation and maintenance.

Because Ham Lake proposed to develop at a density and population level not generally recommended by the Council's Development Framework for a Rural Service Area community, and because of other concerns not addressed by the plan, the Council notified the community that it had found its comprehensive plan to be inconsistent with its regional policy.

To accelerate and upgrade the quality of planning at the local level, the Council proposed the concept of mandatory local planning in its latest chapter of the Development Guide, the Development Framework. The Council commented:⁵

This requirement is needed to ensure the proper functioning of metropolitan systems and investments and to make certain that land development is coordinated with the provision of public facilities. Comprehensive plans should provide enough information on densities, timing, and staging to enable the Metropolitan Council to judge whether the plan is consistent with metropolitan systems. Already adopted community comprehensive plans could be amended if necessary to include the necessary additional information.

The Council proposed to the legislature a mandatory planning act in 1975, applicable to all local governments of the Metropolitan Area, and the bill failed by a slim margin.

Footnotes

¹Laws 1975, Chapter 13, Section 19.

²See Metropolitan Development Guide/Policy Plan, MCP 9, supra.

³Metropolitan Council, May 25, 1973, "Metropolitan Development Framework: Existing Policy Analysis, Technical Background Report," p. 274.

⁴Metropolitan Council, July 17, 1975, Report of the Physical Development Committee, "City of Ham Lake Comprehensive Plan Review."

⁵Metropolitan Council, 1975, Development Framework, Metropolitan Development Guide, p. 67.

INDEPENDENT COMMISSION, BOARD AND AGENCY PLAN REVIEW

In addition to the Metropolitan Council, the Metropolitan Waste Control Commission, and the Metropolitan Transit Commission, the seven-county region has a number of other special districts which have varying degrees of planning, regulating, and operating responsibilities. Since 1967, the Council has been involved in a number of independent district decisions and programs which have had potential for considerable environmental impact upon the Metropolitan Area's natural resources. Relating these independent district decisions to its own policy guidelines and program decisions has been a major concern of the Council.

Review Requirements

Independent Metropolitan Area agencies or units of government are required to submit their plans for Council review.¹ The Council may suspend for an indefinite period the execution of a plan, or any part thereof, if the Council finds that a plan is inconsistent with its Metropolitan Development Guide or is detrimental to the orderly and economic development of the Metropolitan Area, or any part thereof. However, this may only be done if the Council finds the plan to have an Area-wide effect, a multi-community effect, or to have a substantial effect on metropolitan development. No action shall be taken to place any plan or any part thereof into effect by the submitting agency during the 60-day review period, unless the Council advises the agency otherwise. If the Council and the affected agency are unable to agree as to an adjustment of the plan in order to obtain Council approval, then a record of the disagreement and a recommendation for action must be prepared by the Council and submitted to the next regular session of the legislature for resolution. The Council is also empowered to review Metropolitan Airports Commission capital projects requiring the expenditure of more than \$2,000,000; no such project which has a significant effect on the orderly and economic development of the Metropolitan Area may be initiated without the approval of the Council.² The Council must also review acquisition of public transit systems and the issuance of revenue bonds by the Metropolitan Transit Commission, and give its approval before bond issuance can occur.³

In several instances, additional state legislation defines the Council's responsibilities in greater detail by identifying specific independent units of government and by indicating more precisely what decisions of those units of government require Council approval. Examples of such legislation are the State Zoo Act (Minnesota Statutes 85A), which provides that the Council must approve the location of any new state zoo site, and the Minnesota Watershed Act (Chapter 799), which provides for Council review of watershed district overall plans and approval of watershed district projects.

Airport Plan Review

The Metropolitan Council adopted in 1973 an airports chapter of the Metropolitan Development Guide. The guide was to be used not only for establishing policy on a major airport for the Metropolitan Area but also to provide direction to the Metropolitan Airport Commission as it undertook master planning for various secondary airports. Utilizing the policy guidelines adopted in the airports guide chapter, the Commission and the Council in 1974 agreed to establish a formal master planning process and a joint advisory committee. As these master plans were completed, the Commission would forward them to the Metropolitan Council for its review and approval.

In 1975, two interim master plans (Lake Elmo and St. Paul) were forwarded to the Council for review. Besides reviewing the plans for their consistency with the Council airport system plan, the Council also considered a variety of environmental issues which were related to airport development.

As an example, in the interim master plan for the St. Paul Downtown airport, the Commission proposed to realign the main runway and elevated building area. Environmental effects resulting from the proposal were identified in terms of aircraft height hazard zones and aircraft noise impact zones, wetlands filling, removal of wildlife habitat, increased surface water runoff, and air quality alteration. The Council reviewed the alternatives for airport development and then determined that one of the alternatives was consistent with Council policies, subject to certain conditions being addressed in the final Master Plan Study report, airport layout, and area plans, including provisions for noise impact.

Plan Suspension

While the Council has reviewed a large number of plans and project proposals from independent agencies and special districts, it has resorted to suspension of agency and district plans on four occasions. In all such cases, reasons for suspension dealt with the environmental effects of the proposed plan or project of the agency. Examples of two such conflicts are described below, to illustrate how the Council has applied its environmental policy to special district actions, and then used its powers of suspension to carry out that policy.

A. Airport Site Selection

In February, 1969, the Metropolitan Airports Commission submitted for Metropolitan Council review as an independent agency plan its "Proposed Airport System Plan, 1970 - 1980" and its "Findings, Conclusions, and Order" on the development of a second major airport in the Minneapolis-St. Paul area. The proposed site for the second major airport facility was located in an area known as Ham Lake, characterized by large areas of wetlands and sandy soils, and near the Carlos Avery Wildlife Refuge. In reviewing the proposed Ham Lake site, the Council concluded that certain

environmental considerations made the site proposal undesirable:⁵

Airport and Affected Land Development. Ham Lake has available sufficient land suitable for development to accommodate only the airport and directly related activities. There would be insufficient land nearby to fully support this site as a major diversified center. The shortage of suitable land increases the pressure to reclaim or develop suitable land and further complicates the difficulty of applying development controls.

There would be a potential noise impact on existing development located in Coon Rapids, Fridley, Centerville, and Lino Lakes (excluding the Treatment Center) which would involve up to 3700 people now living in these areas underneath abusive noise zones. Some other sites in the north and south would appear to be more desirable from this aspect. At any site there will be an absolute necessity to establish development controls.

Natural Resources - Airport Relationships. This criterion has predominated in the thinking of proponents and opponents of the Ham Lake site, and testimony by both groups has been impressive. However, serious doubts are raised by the relationship of a proposed Ham Lake site to the Carlos Avery Wildlife Management Area and open space development. The area's critical role in recharging the Metropolitan Area's underground water system is extremely vital. These criteria are, in our opinion, important factors in the preservation of natural resources.

After finding the proposed system plan and order to have an area-wide effect, on April 24, 1969, the Council suspended that portion of the Metropolitan Airports Commission's system plan relating to secondary airports pending further development of such plan by the Council and the Commission, and that portion of the "Findings, Conclusions and Order" relating to the site. The Council requested the Commission to fully evaluate all potential sites in the Metropolitan Area, using the Council's site criteria.⁶

Subsequently, in November, 1970, the Metropolitan Airports Commission adopted a "Revised Findings, Conclusions and Order" providing for the expansion of an existing small airport or the acquisition of lands and development of a new major airport at the Ham Lake site. Upon review, the Council determined the Order to be an integral part of a long-term comprehensive plan of an independent commission and that it "has a substantial effect on metropolitan development and is detrimental to the orderly and economic development of the metropolitan area, and that the Order as part of the Commission's comprehensive plan should be and is suspended."⁷ In its own findings, the Council noted that "an airport site can be acquired and developed in the Ham Lake area but not without extensive measures for environmental protection and without some permanent damage to the environment of the Ham Lake area."⁸

The Council also recommended that "any new site selected should be

developed in a manner to have a minimum effect on natural resources in accordance with the provisions of the Airport Zoning Act, the Airport and Airway Development Act of 1970, and the Natural Environmental Policy Act of 1969, and further that full consideration should be given to the possible joint use of airport facilities for recreational and other purposes that would preserve the natural environment in accordance with the objectives of those acts."⁹

B. Watershed District Review

In 1968, the Coon Creek Watershed District submitted for review an application for a \$438,151 Watershed Loan from the Farmers Home Administration for improvements in a major part of the total watershed. In November, the Council voted to delay action on the application until the Council had received the report from the Metropolitan Airports Commission on the Ham Lake airport site, and the Council also requested the district to have the drainage proposal reviewed by the Minnesota Department of Conservation to determine its effect on the Carlos Avery Wildlife Area.

In March, 1969, the Council was informed that the district had withdrawn its application for FHA funds and was going to proceed with other types of financing. In the same month, the Council accepted withdrawal of the FHA loan application but requested the District to submit its plan to the Council for review as an independent agency plan before placing it into effect.

The watershed district submitted its plan to the Council for review in April. In July, after finding that the proposed plan as submitted would be detrimental to the orderly and economic development of the northern part of the Metropolitan Area, the Council directed that the plan be indefinitely suspended pending the resolution of two major issues:¹⁰

First, the future land use in the watershed should be determined by the appropriate governmental agencies and the entire Watershed District treated as one unit. Secondly, the appropriate units of government should adopt adequate land use controls to make the best use of vital natural resources in the watershed by establishing a long-term balance between development and the natural resource base.

The Metropolitan Council suggests that the Watershed District, the local units of government, and the Metropolitan Council cooperate in resolving the issue of future land use in the watershed and in the development and application of necessary controls.

The plan remained in suspension as of 1975 since the issues were never resolved by the district and it never submitted a revised plan.

Stipulation Agreement

The use of a stipulation agreement has also proved helpful in

determining the character of review, by the Council, of the plans and programs of independent agencies and regional districts. One such example, described below, concerned an agreement between the Council, the Metropolitan Transit Commission, the two central cities, and two state agencies.

In late 1973, the Metropolitan Council entered into an agreement with the Minnesota Pollution Control Agency, the Minnesota Highway Department, the City of Minneapolis, the City of St. Paul, and the Metropolitan Transit Commission to assist in implementing a plan to achieve national carbon monoxide standards in the Minneapolis central business district and to maintain the standard in the St. Paul-Minneapolis Air Quality Control Region, in compliance with the U. S. Environmental Protection Agency's efforts to meet auto emission standards imposed by the Clean Air Act of 1970. In addition to agreeing to cooperate with the Minnesota Highway Department in its program to complete certain highway segments north of the Minneapolis Central Business District, as well as efforts by the Transit Commission to establish shuttle bus and express bus service to downtown Minneapolis, the Council also agreed to review the plans of the various metropolitan governmental bodies for attaining and maintaining the carbon monoxide standard and to advise the agencies of the effect of such plans on the coordinated and harmonious development of the Metropolitan Area.¹¹

Footnotes

¹Laws 1975, Chapter 13, Section 14.

²ibid., Section 103. See also Section 115.

³ibid., Sections 56 and 68.

⁴Metropolitan Council, July 24, 1975, Report of the Environmental and Transportation Committee, "Review of Interim Master Plan Study: St. Paul Downtown Airport."

⁵Metropolitan Council, April 23, 1969, Report of the Referral Committee, "MAC 'Proposed Airport System Plan, 1970-1980,' and 'Findings, Conclusions, and Order' on the Development of a Second Major Airport," p. 3.

⁶ibid., p. 3.

⁷Metropolitan Council, December 10, 1970, "Resolution Suspending Operation of Part of Minneapolis - Saint Paul Metropolitan Airports Commission Comprehensive Plan."

⁸Metropolitan Council, December 10, 1970, Report of the Referral Committee, "Metropolitan Airports Commission's 'Revised Findings, Conclusions, and Order on the Development of a New Major Airport in Anoka County.'"

⁹Letter from James Hetland to the Metropolitan Airports Commission, December 23, 1970.

¹⁰Memorandum from James Hetland to the Metropolitan Council, February 26, 1970, "Coon Creek Watershed District Work Plan."

¹¹Letter from Edward Wilk, MPCA, to John Boland, December 4, 1973, "Memorandum of Intent."

METROPOLITAN SIGNIFICANCE REVIEW AND SUSPENSION

While review of formal plans and long-term programs of local governments in the Metropolitan Area provides substantial opportunity for the Council to apply its adopted environmental policies and regulations, it has also recognized that there may be a number of individual projects by private organizations and governmental agencies which, although not included in the long-term plans of a community, nevertheless would have important metropolitan consequences and therefore warranted review by the regional body. Provisions for such review were made in 1967 in the Council's legislation, in the section dealing with municipal comprehensive plan review:

Subd. 7. COUNCIL REVIEW: MUNICIPALITIES. Each city, village, borough, town and county, all or part of which lies within the metropolitan area, shall submit to the metropolitan council for comment and recommendation thereon its proposed long term comprehensive plans or any proposed matter which has a substantial effect on metropolitan area development, including but not limited to plans for land use. The proposed plans shall be submitted to the council after their approval by the planning commission and before final approval by the governing body of the city, village, borough, town, or county.

Council Reviews Since 1967

While the legislation did not define the term "substantial effect" and while the Council never formally adopted any guidelines for such determination, the Council nevertheless has undertaken review of eight separate referrals to determine substantial effect upon Metropolitan Area development since 1967. Each referral was judged on the facts presented during the review and in a few cases, staff guidelines were proposed and used for the particular referral. The Council found three of the eight referrals to have substantial effect, four having none, and one inconclusive. The general criterion applied by the Council that appears in nearly all the cases was the impact and consistency of the proposed matter in relation to the Metropolitan Development Guide or other Council policy.²

In the three referrals which the Council held to have substantial effect upon Metropolitan Area development, environmental considerations were major items of discussion. The first two referrals were similar in that they involved proposed rezonings by a local government to accommodate mobile home parks, a 400-unit park in Oakdale and a 1000-unit park in Stillwater Township. In both cases, sewer service to the proposed parks was a major question, particularly in the latter case where an existing plant and interceptor line were already overloaded from surrounding residential and commercial development, and the Council had no immediate plans to expand those facilities. In addition, concern was expressed about the effect that such development would have in increasing storm water runoff, contrary to the efforts of the recently-formed Valley Branch Watershed

District in minimizing flooding conditions near the lakes and ponds within the watershed. In the Oakdale referral, the village voted to deny the rezoning request and the Council took no further action in its review; in the Stillwater case, the Council recommended that the proposed mobile home park be reduced by half, that the county develop more appropriate zoning for adjacent property, and that the local government units, the Council, and the Sewer Board work out specific sewer interceptor plans for the mobile home park. The third referral involved a proposed domed football stadium in downtown Minneapolis; the Council concurred that the proposed stadium would have a substantial effect and requested that the City of Minneapolis submit the plan for review. In April, 1973, the City officially submitted the plan, but no final action was taken by the Council because support for the project within the city council had been dropped.

Of the four requests for metropolitan review which the Council did process and subsequently made a determination that the projects would not have a substantial effect upon Metropolitan Area development, two involved strong environmental considerations. The first proposal surfaced in November, 1971 and involved a rezoning request to permit gravel quarrying on 200 acres on Upper Grey Cloud Island along the Mississippi River. The Town Board asked for a determination from the Council because the site in question was shown in the Open Space chapter of the Metropolitan Development Guide as a potential metropolitan, state, or federal recreational facility. Upon review, the Council advised the township that the proposed rezoning was not a matter of metropolitan concern. The second proposal occurred in February, 1973 and involved a coal handling facility to be built by the Port Authority of the City of St. Paul on 60 acres of land along the Mississippi River. The site conflicted with the Open Space chapter of the Metropolitan Development Guide, which indicated the area as a potential recreational facility, and review had been requested by the State Senate Committee on Metropolitan and Urban Affairs. The Council, however, found the proposal to be a land use question for local determination and not requiring further Council review.

Metropolitan Significance

In 1974, the State legislature approved an amendment to the Council's authority and gave it a specific responsibility for conducting a review of matters of metropolitan significance.³ The law required the Council, by July 1, 1975, to adopt regulations which established standards and guidelines for determining whether any proposed matter was of metropolitan significance, and establishing a review procedure of all proposed matters which met the guidelines and standards of review. Standards to determine if a proposed matter should be reviewed or not were adopted by the Council in April, 1975, and are given below; no detailed standards and criteria were developed for the substantive review itself, other than the general relationship of the matter to Council policy.⁴

"MC 2 Standards for Determining the Necessity
for a Comprehensive Review

(a) System Effects. Unless exempted pursuant to MC 3, any proposed matter shall be subject to the comprehensive review provided in MC 5, if the council finds, pursuant to MC 4, that it may cause any of the following effects:

(1) The discharge of fifty thousand (50,000), or more gallons of sewage per day and a substantial effect on a receiving public sewer facility or on the plans for such a facility contained in an approved local comprehensive sewer plan or a metropolitan plan.

(2) The violation of a condition contained in a national pollution discharge elimination system permit issued to the metropolitan waste control commission.

(3) The construction of any public sewer facility in conflict with an approved local comprehensive sewer plan or a metropolitan plan.

(4) The discharge of sewage or sewage effluent on or into any lands, waters, or private sewer facility and the premature extension or use of a public sewer facility.

The following discharges shall not be subject to this standard nor be given a metropolitan significance review:

(aa) Those which will be authorized or permitted by a local governmental unit pursuant to an ordinance regulating private sewer facilities which has been approved by the metropolitan waste control commission, the pollution control agency or the council;

(bb) Those which will be directly authorized by a permit issued by the pollution control agency;

(cc) A discharge from a single detached dwelling unit built on lands which has not been subdivided;

(dd) Discharges into systems in operation as of the effective date of these regulations.

(5) The generation of ten thousand (10,000) or more vehicle trips per day or one thousand (1,000) or more vehicle trips per peak hour and a substantial effect on a metropolitan transportation facility or on the plans for such a facility contained in a metropolitan plan.

(6) A substantial change in the alignment, location, placement, size, or practical service capacity of the whole or any segment of an existing metropolitan transportation facility or on the plans for such a facility contained in a metropolitan plan.

(7) A substantial change in the planned location, size, function or character of:

(aa) An existing or proposed regional recreation open space designated in a metropolitan plan and for which a master plan has been accepted by the metropolitan council, or

(bb) The Minnesota Zoological Garden.

(8) A substantial change in the planned location or functional classification of an existing airport or an airport or airport site designated as a planned metropolitan airport facility in an airport system plan approved by the council or contained in a metropolitan plan and for which an airport master plan has been prepared and adopted by the metropolitan airports commission or the Minnesota Department of Aeronautics.

(9) A substantial conflict with the land use development standards and guidelines for the Mississippi River Corridor adopted by the Metropolitan Council on February 13, 1975, provided that this standard shall become void in the event that the Mississippi River Corridor is designated a critical area pursuant to Minnesota Statutes, Chapter 116G.

(10) The subdivision of a land outside the metropolitan urban service area, the municipal boundary of a freestanding growth center or the boundary of a rural trade center accepted by the Council, all as defined and identified in the development framework chapter of the metropolitan development guide and the premature extension or use of a public sewer facility, the premature construction or upgrading of a metropolitan transportation facility or a county road, or the disruption of agricultural use in prime agricultural lands.

(11) A substantial adverse effect on another local governmental unit, including, but not limited to, an effect on water used for public consumption, flooding, or the character, use or condition of existing or planned neighboring development.

(b) Comprehensive Plans. Upon the adoption by a local governmental unit of a comprehensive plan which has been reviewed and accepted by the metropolitan council pursuant to Minnesota Statutes, Chapter 116G or any other law providing for such review and acceptance by the council, the standards for proposed matters set forth in MC 2(a) (1), (3), (5), (6), (9), and (10), shall be superceded by the following standard for a proposed matter to be located within the jurisdiction governed by the accepted comprehensive plan:

(1) The construction of, use, or discharge into a public sewer facility, the construction, upgrading or use of a metropolitan transportation facility or a county road, or the subdivision of land in conflict with the adopted comprehensive plan or with a subsequent amendment to a metropolitan plan not considered in the comprehensive plan."

Footnotes

¹Laws 1967, Chapter 473B.06, Sub. 7.

²Staff memorandum to Physical Development Committee Metropolitan Significance Advisory Committee, July 23, 1974, "Background to Metropolitan Significance."

³Laws 1975, Chapter 13, Section 18.

⁴Metropolitan Council, April 10, 1975, "Rules and Regulations for the Review of Matters of Metropolitan Significance."

PROTECTION OPEN SPACE STANDARDS ADOPTION

For a number of years, ever since the Council undertook a study of the entire Metropolitan Area using the environmental suitability analysis developed by Ian McHarg, the Council has advocated that natural resources should be a primary determinant rather than a residual use for the development of the Metropolitan Area. In its various environmental planning studies and its first Open Space chapter of the Development Guide, the Council has identified those natural resources it considers to be the most important for the preservation of the environment and the protection of the health, safety, and welfare of the metropolitan population.

Airport Zoning Act

An early attempt to implement these environmental concerns through regional planning decisions was environmental zoning related to major airport site development. In 1969, widespread concern about the impact of developing a new major airport facility for the Metropolitan Area led to passage of the Airport Zoning Act,¹ which created special powers for use by the Council to prevent a wide range of environmental pollution and premature development problems.

The law provided that within 120 days of approval of a site for a new major airport site by the Metropolitan Airports Commission and the Metropolitan Council, the Council must adopt criteria and guidelines for the regulation of land use and development within three miles of the airport site boundary. In the event that the Council determined that natural resource protection was necessary, the boundary could be extended to five miles. Regulations and guidelines could apply to zoning ordinances, building codes, subdivision regulations, official maps, etc., and could include such purposes as protection from aircraft noise and preserving natural underground water reservoirs and other natural resources.

The guidelines and regulations were to be adopted as part of the Metropolitan Development Guide. After their adoption, all local governments within the affected area were required to change their local regulations to conform to the Council regulations within 60 days after Council review. No special use permit or variance could be granted which authorized a use or development which was contrary to the Council's criteria and guidelines.

Similarly, the Council was required by the same act to establish aircraft noise zones, including acceptable levels of perceived noise decibels for categories of land use, using the composite noise rating method and tables or the noise exposure forecast method and tables. Local governments were required to incorporate these aircraft noise zones in their local regulations and then submit these regulations to the Council for review and approval.

Although the Council undertook development of the environmental

standards and criteria for application in 1972 and 1973 in the event a major airport site was selected, selection of an airport site was postponed indefinitely. Accordingly, the environmental standards were never adopted by the Council.

Protection Open Space Standards

When the Council adopted its Protection Open Space chapter on April 26, 1973, it called for cooperation with state and local units of government and various agencies and citizen groups to develop environmental standards and criteria. These standards and criteria would be recommended to the appropriate state agencies for inclusion into their rules and regulations and which would require county and municipal governments to administer them in a fashion similar to Shoreland Management Act (Chapter 777) and the Floodplain Management Act (Chapter 590). The Council would provide technical assistance to local units of government and would recommend areas of unique plant or animal species to the state or local units of government for preservation.

The legislature did not take action on the request for mandatory state-adopted standards and criteria, but it did pass a law requiring the Council by 1976 to develop standards and criteria and model ordinances for voluntary adoption by interested local units of government.² It also authorized the Council to provide technical assistance to local governmental units to expedite adoption and enforcement of local ordinances under the act. The legislation provided for environmental standards as follows:

(STANDARDS AND CRITERIA) Subdivision 1. Before January 1, 1976, the metropolitan council shall, after public hearings, promulgate standards and criteria and suggested model ordinances for the regulation of the use and development of the land and water within the metropolitan area which will provide for:

(a) The protection and preservation of those wetlands and lowlands permanently or intermittently covered with waters, such as marshes, swamps, bogs, meadows, potholes and sloughs which are essential to hydrological or ecological systems or for flood control;

(b) The protection of groundwater recharge areas which contribute significantly to the recharge of groundwater aquifers;

(c) The minimum erosion of those slopes which are subject to severe or moderate erosion because of their degree of slope and soil type;

(d) The maximum retention of existing forests and woodlands, the minimum removal of trees for development, and the encouragement of replanting where removal is unavoidable;

(e) The determination of the suitability of soil or bedrock for development, design and construction measures for development which would compensate for existing soil or bedrock problems, and

the prevention of the type of development for which such soils or bedrock are unsuitable;

(f) The protection and preservation of the natural water-courses, intermittent or permanent, and minimizing the discharge of pollutants into water bodies and water courses by storm runoff and otherwise;

(g) The protection and preservation of areas containing unique or endangered species of plants and animals;

(h) The prevention of premature development for nonagricultural use of prime agricultural lands where such land is essential for agricultural purposes;

(i) The regulation of the extraction of minerals, including sand and gravel, to minimized undesirable environmental effects and provide for future utilization of the lands involved;

(j) The preservation of natural resource areas of particular historical significance.

Footnotes

¹Laws 1975, Chapter 13, Section 31.

²Ibid., Section 28.

ENVIRONMENTAL IMPACT REVIEW

Since its creation, the Metropolitan Council has attempted to assess the impact upon the environment of plans and proposed projects submitted as part of its normal review responsibilities. The Council has established a referral process for all matters which must receive its comment or approval and in most instances, the process includes the necessary review steps to ensure adequate Council action. If the Council felt that insufficient protection to the environment was provided, it would either return the project to the applicant for further documentation or it would refuse to approve the project. The lack of a uniform project justification format at either the state or federal level for documentation or environmental impact was not considered an important obstacle to environmental review.

Since the enactment of the National Environmental Policy Act of 1969, projects involving federal funding or requiring a federal approval or permit have required the preparation of an Environmental Impact Statement. Similarly, with the passage of the Minnesota Environmental Quality Policy Act in 1973, a project considered to constitute a major private or governmental action and having the potential for significant environmental effects can result in the Environmental Quality Council requiring the preparation of an Environmental Impact Statement. Since the passage of these laws, the Metropolitan Council has become involved in a multitude of supplemental environmental reviews, separate from the total review of a project at both state and federal levels. These separate environmental reviews have required the Council to develop referral procedures consistent with its other development management procedures.

National Environmental Policy Act EIS Review

EIS required under the federal law have been prepared by the proponent of a project, i.e., the Metropolitan Council has prepared an assessment of a proposed policy plan, or the EIS was prepared by the federal agency responsible for granting a permit. Federal agency guidelines did not precisely spell out the supporting data which should be contained in the statement, and many such statements did not contain enough background material to stand alone as planning documents. The normal procedure for Council review was to acknowledge receipt of the EIS referral, notify affected government agencies of the pending review, and then advise the submitting agency of Council comment and recommendations.

Experience with EIS review has identified a number of problems.¹ Instead of viewing the project in its entirety, the Council has had to separate the environmental review from the normal A-95 review process. The Council has received the draft EIS without the background feasibility study in some instances, and in others it has had to act on a study with the promise that an environmental impact statement would be prepared later if found necessary by the federal Council on Environmental Quality. Furthermore, Council review was often limited to reaction on the adequacy

of the EIS document rather than on approval or disapproval of the project. Consequently, valuable Council and staff time was spent determining whether the method of assessment was understandable and sufficient. All too often it has not been, and the Council then recommended that the project should not be approved until more documentation was provided by the proposer. However, requests to federal agencies for a delay until more data is provided have met with little sympathy. The result has been an unnecessary and time-consuming review.

Under the normal Council review process, the Council staff contacted the proposer, indicating where the documentation was deficient. If the information could not be supplied within the mandatory review time limitations, the project would be recommended for disapproval based on the lack of information, returned to the proposer as being incomplete, or an extension of time negotiated during which the missing information would be supplied. Under this procedure the Metropolitan Council was assured that the project would progress no further until such additional information was forthcoming. There was no such assurance under NEPA procedures without instigation of court proceedings.

And finally, under normal A-95 review, the Metropolitan Council was confident that most projects for federal funding that received unfavorable regional clearinghouse review would not be approved. With federal EIS, however, the Council was only one of a number of commenters to the appropriate federal agency, rather than one of the primary approvers, and there was little assurance or understanding as to how Council EIS recommendations would be received.

Minnesota Environmental Quality Policy Act

With the passage of this act in 1973,² a project considered to constitute a major private or governmental action and having the potential for significant environmental effects could result in the Environmental Quality Council requiring the preparation of an EIS.

A preliminary step in the preparation of an environmental impact statement is an environmental assessment; its purpose is to assist the EQC in determining the need to prepare an EIS. EQC regulations provide that the EQC may designate appropriate distribution and reviewing points for the environmental assessment report. For purposes of Metropolitan Council review, copies of environmental assessment reports for proposed projects within the Metropolitan Area have been forwarded to the Metropolitan Council from the EQC, with a request for informal staff comments on the need for the preparation of an EIS. Normally, the EQC does not request the Council to take an official position on the assessment review. In its comments to the EQC, Council staff have advised if the project was of local or regional importance, and whether there were significant environmental problems that would require the preparation of an EIS.

A critical issue that has emerged for the Minnesota Environmental

Quality Council is the designation of the responsible agent for preparation of an EIS.

Metropolitan Council Role

In June, 1975, the Environmental Quality Council considered giving the Metropolitan Council the responsibility of preparing EIS for projects which (1) would otherwise be prepared by a unit of government without adequate staff or (2) when the project would impact an area much larger than the area of jurisdiction of one local government. Council staff argued against such designation on the grounds that such projects were clearly the responsibility of one or the other state functional agency. The issue was placed before the Metropolitan Council for resolution when it became known that the EQC would be asked to designate a party responsible for EIS preparation for a large office project overlapping two communities. The proposed project, to be built by Minnesota Mining & Manufacturing Co., would provide some 10 million square feet of office and research space and employ about 18,000 people. In its report to the Metropolitan Council, the Environmental and Transportation Committee concluded:³

The Metropolitan Council itself must prepare environmental assessment reports for plans whose preparation was accomplished with federal fundings, whenever required by the National Environmental Policy Act and federal agencies rules and regulations, and this is consistent with the Council's belief that a unit of government should be responsible for its actions.

The placing of the responsibility for the EIS preparation for a development project, or a local plan with the agency having the greatest responsibility in approving the project or plan is consistent with Council's previous actions as expressed by its seeking of local mandatory planning legislation.

The impact of some projects on regional systems make these projects of regional significance. Council has a definite interest in seeing that these impacts be considered. The providing of some assistance to units of government to insure adequate recognition of the regional interests and the satisfactory evaluation and solution of these issues would be consistent with the Council's thinking as expressed by its attitude on local mandatory planning and on regional significance regulations. The 3M project is a land development project whose approval is solely within the purview of Oakdale and Lake Elmo. However, this project may have impacts beyond the jurisdiction of both units of government and the Council has an interest in seeing that these impacts are adequately documented.

The Council then adopted the following recommendations defining its responsibilities for EIS review and preparation:⁴

1. The Metropolitan Council limits its responsibility for

the preparation of EIS to the preparation of those required by the Council's plans to satisfy the requirements of both the National Environmental Policy Act and the Minnesota Environmental Quality Act.

2. The Metropolitan Council assists units of government in the preparation of EIS by providing data produced by the Council and the necessary interpretation of these data, as well as providing timely input in the identification of issues of concern to the Council, and whatever other expertise can be provided by staff within the limits of the Council's mandate and the availability of staff.
3. Further, with regard to the preparation of the EIS for the 3M project in Oakdale and Lake Elmo, the Metropolitan Council provides, to the extent possible, technical assistance to the agency named by the EQC as the "responsible agency" for the preparation of this EIS.

Footnotes

¹The following comments are drawn from a paper presented by Frank Lamm, Environmental Planning Director, at the 95th Conference of the American Water Works Association, June 11, 1975, entitled "Applying Environmental Impact Statements to Metropolitan Area Water Resource Projects."

²Laws 1973, Chapter 116G, Sections 116G.01-116G.14.

³Metropolitan Council, July 24, 1975, Report of the Environmental and Transportation Committee, "Policy on Council Responsibility for and Involvement in Environmental Impact Statement Preparation."

⁴Ibid.

CRITICAL AREA DESIGNATION INITIATION

Since 1969, the Metropolitan Council, and various state agencies, have undertaken several studies of the three major metropolitan river corridors, including the Mississippi River. The purpose of these studies was to focus community attention on the three major rivers and to provide the basis for the development of a concept plan for the three river corridors. In the meantime, the Council had had to review the plans of local units of government, road projects, river channel maintenance projects, regional park acquisition proposals, and others, all affecting the appearance and use of the river and its shore, as well as its water quality and the regional economy. The Council did not have the benefit of specific guidelines or policies for the river corridors to guide it in its decisions.

The Council felt there was a need for specific guidelines or regional objectives against which local comprehensive plan and other proposals could be measured. Tools more precise than a Metropolitan Development Guide chapter on river corridors were necessary in order to provide sufficient guidance to units of government in the preparation of their own plans and their approval of specific projects which affected the river corridor.¹

Minnesota Critical Area Act

The passage of the Minnesota Critical Area Act of 1973,² provided a new planning and implementation tool applicable to river corridor planning and helped focus further public attention on the Metropolitan Area's river corridors.

The law permitted any local unit of government, any regional development commission including the Metropolitan Council, or the EQC itself to recommend a critical area designation. The EQC could then decide to recommend or not recommend such designation to the governor.

Only the governor may designate a critical area upon the recommendation of the Environmental Quality Council. Within a period of six months of such designation, plans and regulations to govern the use and development of the area must be prepared by each local unit of government with jurisdiction within the area; at the request of a local unit of government, either the Metropolitan Council or the EQC may prepare such documents for that unit of government. Existing plans and regulations may also be submitted if appropriate to the designation. Once plans and regulations are prepared, the Metropolitan Council must review them for consistency with regional objectives and the designation order and then submit its evaluation and other relevant planning material to the EQC. The EQC must then give final approval or disapproval to the documents.

A local unit of government must enact only the plans and regulations for a critical area that have the written approval of the EQC, and

shall grant a development permit only in accordance with those plans and regulations. There is no provision for permit approval at the regional level.

St. Croix River Designation

In October, 1972, the Congress of the United States passed legislation including the lower segment of the St. Croix River as part of the National Wild and Scenic River system. While preparation of a Master Plan was the responsibility of the National Park Service, adoption of the plan in 1974 was delayed by the federal Environmental Impact Statement requirement. To protect the character of the river corridor during the interim period, Minnesota designated its side of the river as a Critical Area. The role of the Metropolitan Council was one of support for such designation by the Minnesota Environmental Quality Council, and review of the proposed standards and criteria that would apply following such designation. The standards and criteria were proposed by the state EQC, and were supported by the Council. The Council also reviewed the draft environmental impact statement for the master plan in 1974, after it was prepared by the U. S. Department of the Interior.

Mississippi River Designation

In the case of the Mississippi River, a report by the Citizens League in June, 1974, urged the Council to instigate proceedings leading to the designation of the river corridor as a critical area.³ In response, the Council appointed a Mississippi Riverfront Committee which subsequently prepared a report on the means of achieving a coordinated planning program for the Mississippi River Corridor. It recommended critical area designation in its report, which was approved by the Metropolitan Council on February 13, 1975. The report made six major recommendations:⁴

1. The Metropolitan Council recommends to the Environmental Quality Council that the Mississippi River Corridor, as delineated in Appendix C., be submitted for designation by the governor as a critical area pursuant to Minnesota Statutes, Chapter 116G.
2. The Mississippi corridor should be managed as a multiple resource.
3. The Metropolitan Council will study the feasibility and appropriateness of developing a Metropolitan Development Guide chapter for the three navigable rivers (Mississippi, Minnesota, St. Croix), irrespective of the outcome of the designation of the Mississippi River as a critical area.
4. Each local unit of government should be responsible for developing and implementing a plan for its reach of the river, following the guidelines and standards in this report. The Metropolitan Council should coordinate and review local plans, as well as provide assistance where and when requested.

5. The critical area designation order should not impose a total moratorium on development during the period of plan preparation and approval.
6. The review of permit applications for all projects during the interim period between the issuance of the Governor's order and the approval of local plans by the Environmental Quality Council should be the responsibility of the appropriate local units of government and the Environmental Quality Council.

By law, a recommendation to the Environmental Quality Council for critical area designation must include recommended standards and guidelines to be followed in the preparation and adoption of plans and regulations. For this purpose, the Metropolitan Council recommended four categories of standards and guidelines for use by local governments, regional agencies, and other parties in reviewing and approving all proposed land and water use and development within the river corridor. The four categories included Rural Open Space District, Urban Development District, Urban Open Space District, and Urban Diversified District.

Applicable to the districts were standards and guidelines concerning setback lines, height of structures, sewage disposal systems, floodplain encroachment, bluffs, islands, vegetation management, grading and filling, land use and development, unsewered residential development, cluster development, industrial and commercial uses, mining and extraction, recreational uses, signs, transmission services, barge facilities, sewage treatment plants, sewage outfalls, water intake facilities, and various public safety facilities.

Interim Review

In August, 1975, the EQC hearing examiner requested the Council to indicate what role it desired during the period between the issuance of the Governor's designation order and the adoption of local governmental unit plans and regulations approved by the EQC, in reviewing local development permit reviews. Since the Council normally did not review development permit applications made to local governments, it was hesitant to assume such additional involvement. By late September, the Council agreed to review and comment on the conformance of certain categories of development applications with the interim guidelines as specified below. The Council's review would be combined with other Council review of the same subject matter, if at all possible, and would be conducted within thirty days of submission if required.

Staff noted that the guidelines attempted to limit Council involvement by both list and procedures. In a precedural sense, the consent list approach would enable the Council to give full attention to significant matters which clearly conflicted with the district guidelines. In addition, by recommending consolidation of Council reviews, a matter would be reviewed in full only once.

The list was based directly on the recommended district standards coupled with the Council's desire to concentrate on "major" and "use conflict." Accordingly, no standards were provided for such items as signs, feed lots, or height restrictions. Some of the recommended standards were purposefully left broad because of the lack of appropriate limiting language and the conclusion that the consent calendar would serve to winnow better than stated exceptions.

The categories of interim development reviews by the Council are described below.

1. The establishment of an industrial, commercial or public facility or major expansion thereto, except those proposed for lands within the urban diversified district for which no zoning amendment or special or conditional use permit is required.
2. All proposed plats or subdivisions of land in the rural open space district which are outside the 1975 Metropolitan Urban Service Area (MUSA) which involve the platting or division of land into two or more lots of less than five acres in size.
3. All proposed residential developments:
 - a. sited inside the MUSA which involve the establishment of fifty or more dwelling units in a multi-family project or mobile home court, or twenty-five or more lots in any other residential project, and
 - b. sited outside the MUSA which involve the establishment of twenty-five or more dwelling units and a multi-family project or mobile home court or ten or more lots in any other residential projects.
4. The establishment of, or major extension to, all commercial, recreational facilities sited on or adjacent to the river.
5. All proposed development on or involving the alteration of:
 - a. a wetland
 - b. a floodplain
 - c. an island
 - d. a slope of greater than 12%
 - e. land within 100' of the landward side of a bluff line
 - f. the removal of 25 acres or more of vegetative cover
 - g. the grading or filling of 20 acres of land
 - h. the deposit of dredge spoil
6. Any proposal involving the establishment of a structure, facility or other public or private use which crosses the river.
7. The establishment or extension of any commercial harbor or barge loading or fleeting area.
8. Any proposed matter which will result in the discharge of water into or withdrawal of water from the Mississippi River for which a state permit is required.

9. Any other proposed matter for which an EIS is required pursuant to state or federal regulation, or for which Metropolitan Council review is requested by the situs governmental unit, or for which Metropolitan Council review is requested by resolution from the governing bodies of two or more governmental units adjacent to the governmental units within which a proposed matter is sited.

Footnotes

¹Metropolitan Council, February, 1975, "Recommendations for Critical Area Designation of the Mississippi River Corridor," p. 1.

²Laws 1973, Chapter 116G, Sections 116G.01-116G.14.

³Citizens League, June, 1974, A River to Use and to Enjoy: How the Twin Cities Area Can Develop a Balanced Program to Preserve and Enhance the Mississippi Riverfront.

⁴Ibid., p. 3.

⁵Memorandum from Dick Nowlin and Marcel Jouseau to the Environmental and Transportation Committee, September 18, 1975, "Council Position re Mississippi Critical Area Permit Review in Interim Period."

CONCLUSION

It is clear that the Council has a wide array of management tools available to it, directly or through other organizations, to implement and manage its environmental policy decisions. Examined individually, each tool seems to vary significantly from the others, and their experiences and effects may appear dissimilar. But in an aggregate sense, several patterns have emerged which apply to most, if not all, of the twenty-three regional implementation mechanisms.

Linkage to Policy

It is clear that the Council has given increased emphasis to linking an implementation decision to prior adopted policy. In the first several years of Council activity, development of regional policy documents received priority over program development. As indicated earlier, the program components of most of the various environmental Guide chapters were severely limited in their content and schedule. The best example of this priority on policy development was the omission of capital improvement program preparation as one of the primary actions needed to implement the 1969 Metropolitan Sewer Act. But since 1973, the Council has attempted to direct policy issues that arise during the course of implementation decision-making back to the context of the policy instrument itself. That is, rather than making an implementation decision that constitutes an informal, and possibly significant, policy amendment, the direction has been toward amending implementation proposals to conform to existing policy. If amendment of adopted policy was thought desirable in light of an implementation proposal, the procedure increasingly has been to amend the policy framework first before approving the proposed implementation mechanism. Thus, in the 1975 "Administrative and Operational Procedures" adopted as part of the Waste Management Development Guide/Policy Plan, policy direction was explicitly given to the following implementation tools: development program, plans and specifications review, sewer charges, interceptor acquisition, sewer service boundaries, peripheral area service, comprehensive plans, metropolitan benefit, local sewer policy plans, orderly annexation, and environmental impact review. These procedures required that an implementation proposal at odds with adopted policy be debated and resolved as a policy issue before any implementation decision could be made.

Linkage between Implementation Tools

A second trend is the increasing effort to coordinate the various tools with each other. This has occurred in a number of ways. First, there has been more informal coordination between Council and other agency staff. As the Council has gained experience with individual tools, the increased familiarity has made it easier to refer one against the other. Second, Council enabling legislation has explicitly mandated such coordination, requiring the Council, as an example, to review the Metropolitan

Waste Control Commission's proposed development program against user charge schedules. Third, the Council's own adopted procedural guidelines explicitly required such coordination and review. For example, in the procedural guidelines for local sewer policy plan review, MCP 9, review of the plan was required against the Council's policy plan, the Commission's Development Program, the community comprehensive plan, protection open space regulations, and orderly annexation programs.

Amendment

Many of the twenty-three mechanisms have been modified since their adoption, in light of Council experience with their practical effects. Thus, adoption and application of these management tools has not been a rigid and inflexible process, and the Council has shown its willingness to make necessary amendments as experience and evaluation indicated were reasonable. Notably, capital programming, sewer charge schedules, interceptor acquisition, and local sewer policy plan mechanisms have been given careful scrutiny, and the resulting changes were evident in the 1975 Waste Management Development Guide/Policy Plan. This is a significant point, because it shows that the choice of one or several management mechanisms does not necessarily commit an agency to an implementation strategy that cannot change if its results are unsuccessful. Amendment has occurred on several levels: state legislation, Council administrative regulation, and informal practice. The willingness of the Council to discard operating budget review for increased emphasis upon capital programming shows the possibility, and desirability, for modifying implementation mechanisms to correspond more directly with the needs of regional policy management.

Increased Definition and Scope

Related to the above discussion is the tendency for the Council to identify its choice of implementation mechanisms in more detailed and comprehensive form. A review of Council documents covering the last eight years showed that in the earlier years of Council operation, many of the implementation instruments were only briefly developed, addressing the immediate environmental problem at hand. There was great emphasis on the assumption of shared policy goals and presumed program results between the Council, the Sewer Board, and several state agencies. Articulation of general policy was considered sufficient direction for program decisions by other parties, and detailed coordination procedures were considered unnecessary. But Council experience since then has indicated otherwise, and as the construction program and service decisions of other agencies have grown more complex and expensive, as staff functions have increased, and as other non-environmental issues have been addressed, it has become apparent that a more formal structure of management was necessary, if for nothing else than to define minimal mutual expectations and responsibilities between various parties. The confusion between the Council and the Waste Control Commission over responsibility for sewer service boundary delineation, as an example, or between the Council, the Commission, and

the Minnesota Pollution Control Agency over review of sewer construction permit applications for conformance with approved local sewer plans, could not be resolved for long by casual, oral agreement. Hence, in a departure from previous Development Guide chapters, the Waste Management Development Guide/Policy Plan, Part IV, included formal management procedures to be followed by the Council in its review of implementation proposals.

PART THREE: INSTITUTIONAL STRATEGY

It is clear from the preceding discussion of implementation tools that regional environmental management is not a responsibility that belongs to the Council alone. The tools the Council employs, and the decisions it makes or attempts to affect, are distributed between itself and numerous other organizations of government at local, regional, state, and federal levels. The application of individual management tools has occurred within this larger institutional complex, with the Council's role as a regional organization changing according to the agency it deals with on a particular matter. To a certain extent, this has been part of a deliberate institutional strategy of the Council's own making; to another extent, it has been a function of institutional constraints imposed upon the Council from without. This section examines the larger question of institutional strategy, first, as the Council has viewed its own structural requirements for air quality, solid waste, sewage treatment, and resource recovery, and second, against the effects of the Council's implementation and management decisions since the early period of its establishment.

Air Quality

In 1971, as a result of the passage of legislation which authorized the MPCA to delegate its air quality enforcement powers to other units of government, the Metropolitan Council, the MPCA, and Metropolitan Area counties initiated discussions on a strategy to plan and implement Metropolitan Area air quality programs.

The MPCA proposed to delegate responsibility and authority to the Metropolitan Area counties based on certain assurances.¹ Such assurances included Metropolitan Council review of installation permits, capital programs, budgets, and federal grant applications, as well as Metropolitan Council preparation of an air quality plan and a long-term organizational solution. The counties would agree to a commission structure formed by a joint powers agreement during the interim period, and would adopt identical ordinances incorporating MPCA regulations and outlining the authority and procedures to be employed by the commission. The commission would provide the staff for technical review and recommendation of air quality permits, as well as for monitoring and enforcement. Major policy would be set up by MPCA regulations. The county commissioners would be appointed by each county to the commission, and the MPCA would act as a hearings body for appeals of commission decisions.

The Council's response to this proposal acknowledged its legislative mandate to study the metropolitan issue of air pollution and to make recommendations as to governmental organization.² It argued that the legislative purpose for this directive was to avoid the proliferation of uncontrolled special-purpose districts; in the past, on other environmental problems, the Council had affirmed this principle by recommending that where an urban function had a clear regional dimension, that specific dimension should be handled by a regional board appointed by and directly

responsible to the Metropolitan Council. Accordingly, the Council recommended two courses of action to the MPCA.

As long-range strategy, the Council argued that the control and prevention of air pollution in the seven-county area be recognized as requiring a legislative solution which would provide a region-wide capability for air pollution planning and implementation, including tagging, prosecution, and enforcement authority within over-all air pollution standards established by the MPCA. Such an agency should be organizationally related to the Metropolitan Area similar to the relationship of the Council to the Metropolitan Sewer Board and should provide board membership on a one-man/one-vote basis. The agency should be provided with sufficient financial support to carry out the planning enforcement responsibilities.

As short-range strategy, in the event the MPCA determined that air pollution problems required an interim structure for implementation purposes prior to the 1973 legislative session, the Council indicated that it would cooperate with the MPCA during that interim period. Such cooperative effort by the Council would include:

1. The development of a long-range comprehensive plan for air quality control in the metropolitan region;
2. The review and comment on the federal grant applications, budget, and capital programs of the commission, and on air quality permit applications;
3. That after approval of the long-range comprehensive plan for air quality, the Council would approve or disapprove the commission's issuance of installation permits, requests for variances and proposed compliance schedules or stipulations;
4. The preparation of a legislative proposal for the long-term planning, control, and prevention of air pollution in the Metropolitan Area.

Because of funding difficulties, other Council environmental priorities, and other legislative needs, no further action was taken on the proposal by either the MPCA, the Council, or counties. The Council is currently preparing an air quality chapter for the Metropolitan Development Guide.

Solid Waste and Resource Recovery

The 1967 Metropolitan Council Act required the Council to study "the acquisition of necessary facilities for the disposal of solid waste material for the Metropolitan Area and the means of financing such facilities."³ In November, 1968, the Council adopted a report which recommended an institutional strategy to the legislature. The report recommendations are outlined below.⁴

<u>Agency</u>	<u>Functions</u>
Metropolitan Council	1. Develop and adopt system plan. a. Over-all plan for general location and size of sites. b. Determination of type or types of solid waste disposal systems. c. Site and operational standards. 2. Review and approval or disapproval of the counties' operations plans or proposals and enforcement methods. 3. Develop model ordinances and regulations for the Metropolitan Area. 4. Review and make recommendations to the MPCA on all applications for initial licenses and all subsequent annual renewals. 5. Back-up powers only if counties fail to act.
Counties	1. Enforce Metropolitan Council site and operational standards. 2. Acquire sites and facilities. 3. Finance sites and facilities. 4. Detailed engineering and design and physical development. 5. Operation and maintenance.

The advisory committee making the report to the Council concluded:⁵

The committee felt that this approach represented the proper balance between the goals of achieving effective coordination in the location of the sites and uniform standards governing the operation of the sites and the goal of making use of existing local government whenever practicable.

The report was the model for the Solid Waste Disposal Act passed by the legislature in 1969.

In 1974, the issue of solid waste disposal was raised again when the legislature requested the Metropolitan Council to undertake a study of solid waste management and resource recovery, and make recommendations on an appropriate institutional structure for carrying out the report's conclusions. The 1975 report from the Council to the legislature urged that body to emphasize its intent to change the present emphasis on sanitary landfills to a solid waste disposal system that emphasized resource recovery, with source reduction as one of the important directions for future solid waste management in the Metropolitan Area. Legislation was requested that would define the authority of the Council to develop a resource recovery policy plan, and to provide the Council with a mechanism that could be used if a resource recovery applicant asked for, and justified, the need for a designated amount of solid waste from a specified

geographical area. Specifically, the report recommended:⁶

Enabling legislation is needed for the management and implementation of a resource recovery system for the Metropolitan Area. Provisions for the following should be included:

- a. Definition and emphasis of resource recovery and source reduction as the goals of solid waste management in the Metropolitan Area.
- b. Specific Metropolitan Council authority for planning, review and approval of resource recovery facilities with responsibility for implementation similar to present responsibilities in MSA 473D for solid waste disposal and hazardous waste management and disposal.
- c. Authority for designation of specific solid waste disposal districts by the Metropolitan Council. This authority would be exercised only after an applicant requests and justifies the need for obtaining solid waste from a specified area. The Metropolitan Council would develop criteria to evaluate these requests for districting. Consideration would be given to safeguard the economic interests of the private sector insofar as such interests assure acceptable levels of collection and disposal costs. This authority will be exercised only after public discussion in which governmental units, waste collectors, and resource recovery providers determine that districting is necessary to assure viability of recovery facilities. Districting would be included in each Metropolitan county report and implementation would be through county ordinances and regulations.
- d. Authority for governmental units to develop resource recovery proposals.
- e. Bonding authority for governmental units with respect to resource recovery sites and facilities.
- f. Authority for governmental units to sell materials recovered from solid wastes and to sell any other products which are manufactured or produced in part or whole from solid waste. These materials and products include, but are not limited to, paper and wood, ferrous and non-ferrous metals, glass, fuel oils and gases and steam.
- g. Authority for the acquisition of resource recovery sites and facilities by counties and the Metropolitan Waste Control Commission.
- h. Authority for the Pollution Control Agency to adopt regulations relating to the location and operation of resource recovery sites and facilities.

The legislature began hearings on the report during the 1975 session and continued discussion of the recommendations to the 1976 legislative session.

Sewage Treatment

The structural relationship of the Metropolitan Waste Control Commission to the Metropolitan Council has been described in detail in Part Two. In summary, it was established in 1969 as an operating agency subordinate to the planning and policy of the Metropolitan Council. Its seven board members, including the board chairman, were appointed by the Governor, and it hired its own Chief Administrator and supplementary staff. However, all applications for federal and state funds had to receive Council approval; all proposed capital improvements had to be approved by the Council, including its operating budget; and only the Council could issue bonds to provide revenue for Sewer Board construction and other system improvements. With the passage of the Metropolitan Reorganization Act in 1974, the Commission was no longer required to submit its operating budget to the Council for approval, but it was required to submit a Development Program which conformed to the Council's policy plan for the Commission. In addition, the Council was given the authority to make all appointments to the Commission, except the chairman, who was appointed by the Governor.

The Sewer Board model has been cited frequently by the Council as a desirable pattern for other regional agency functions. In December, 1972, when the Council was asked by the legislature to appraise its experience with the Council-Sewer Board format, the Council stated:⁷

In a model for a more positive relationship the Council, in considering the solution to area water pollution problems, recommended the creation of the Metropolitan Sewer Board, as a management board under the Council. The Metropolitan Sewer Act assigned specific responsibility to the Council for preparing an area-wide plan for the location of treatment plants and metropolitan interceptors and the scheduling of such construction, together with the authority to review the operating and capital budget of the Sewer Board to ensure that the over-all system plan was carried out. The Act assigned to the Metropolitan Sewer Board the responsibility for detailed design, construction, and operation of the system. This provided the Council with the necessary tools to effectively coordinate water pollution functions with other regional functions and at the same time relieved the Council of detailed operating responsibilities so that it could devote its maximum efforts to its primary role of planning and coordination.

The one legislative amendment sought by the Council at that time was the authority to appoint the Board's chairman.

In March of 1973, the Chairman of the Metropolitan Sewer Board presented his assessment of the Council-Sewer Board structure to state legislators:⁸

The Board feels that the Council's review of the functional board's Capital and Operating Budgets is necessary and a proper role for the Council in order to coordinate the planning and

development of the Metropolitan Area. The review of the Operating Budget should be established in such a way that it is not a line item review but only a review of the general programs and the expenditure levels of the various boards. This review by the Council would ensure that the programs of the boards are consistent with sound fiscal and financial planning for the area. The Capital Budget of each agency should be reviewed by the Council in order to establish the proper priorities for capital expenditures in all of the functional areas...

The Council's planning role to prepare a comprehensive plan for each of the functional areas listed on the chart should be maintained. The Council should establish the comprehensive plan for each Board as is presently done for the Sewer Board. The Council should have the ability, if they are approving the plan, to suspend that plan until the agency approves a plan consistent with the overall metropolitan plan. The Council should only do the overall comprehensive planning. Once the plan is established, and the Capital Budgets are adopted according to the comprehensive plan, the boards should have the authority to carry out the plan and the Capital Program without further Council review....

The Board feels that a number of related environmental functional areas should be combined under one agency in order to better coordinate these important programs. Under the present structure, the environmental functional areas of water supply, solid waste, stormwater, air pollution control, and watershed management are all independent.... The Minnesota Legislature should consider restructuring the Sewer Board to become an Environmental Control Board with authority to deal with all of these functional areas. We feel that putting all of these under an Environmental Board would provide for a better operation of the functional areas as well as providing an opportunity for the Council and the Board to undertake a more comprehensive program to solve all these problem areas.

Conclusions

In a tentative way, what assessment can be made about the broad institutional strategy pursued by the Council and the Minnesota legislature since the Metropolitan Council Act was passed in 1967 and the Council's adoption of its environmental policies? Clearly, regional environmental management is more than the function of the Council as a regional environmental planning and coordinating agency. It is evident that the Council recognized early on that it was part of a complex institutional structure composed of a variety of governmental units with their own powers, priorities, and resources. Devising a management strategy that dealt with that reality has been a major task in the last few years. A number of tentative propositions about the Council's experience are suggested below:

First, the convenient classification of governmental agencies by

the planning/operating dichotomy provides little insight into the dynamics of regional policy formulation and policy implementation in the Metropolitan Area, at either regional or local government levels. Unfortunately, the image of the Council as a planning agency only persists, partly because of its seductive simplicity, partly because it seems less threatening to established forms of local government. Clearly in its first several years of operation, the Council itself pursued this idealized functional split, and others emphasized this aspect. In their study of innovative state environmental legislation, Bosselman and Callies came to this conclusion about the Council:⁹

For all of its power over the actual use of land in the metropolitan area, the one concept which emerges most clearly from discussions with the Council's administrators is their expressed intention to remain in the policy-making sphere and to avoid being drawn into the implementation of functional programs on a day-to-day basis, notwithstanding the concerns voiced by local-government agencies and commissions concerning internal meddling by the Council. The Council maintains that it prefers to remain free to plan and control activity in hitherto untouched, non-physical areas -- like criminal justice -- rather than bog down in the running of the programs it creates.

Yet, as is evident from the preceding discussions of capital program review, plans and specifications review, sewer charges, comprehensive sewer plan review, independent district plan review, etc., the Council has been drawn inexorably toward the management consequences of its policy decisions, at times with great reluctance, as with air quality, and at other times with considerable enthusiasm, as with service boundary delineation. The Council's abstractions of itself as a policy-making and coordinating body only have increasingly been at odds with its gradual involvement in the complex and difficult process of devising an effective management strategy for implementing its policy. One can argue that the Council has come to the conclusion, albeit incrementally, that to justify the effort expended in making regional environmental policy, there must be adequate provision for carrying it out, and that there must be greater participation on the part of the Council in monitoring and guiding that management process.

Second, the experience of the Council shows that devising an institutional strategy for regional environmental management does not mean a series of exclusive choices between governmental agencies. That is, to opt for a regional agency like the Council does not mean eliminating another form of government, such as watershed districts, counties, or municipalities. Rather, Council strategy has emphasized developing mechanisms which link agency decisions to one another more explicitly, drawing on whatever flexibility or adaptiveness the existing structure is capable of providing. It goes without saying that none of the governmental agencies in the Metropolitan Area in 1967 could have foreseen the roles they now play as a result of the Council's regional policy efforts. Yet significant changes have occurred in regional-local-state relationships, and the bulk of these have occurred without the benefit of specific legislative direction; they

have arisen from adaptations that appeared most reasonable.

Thus, while there is still concern on the part of local governments and special districts on future encroachment by the Council upon their powers, there is a mutual recognition between them that they have a significant role to play in implementing regional, as well as local, environmental policy and failure to act on their part may become justification for increasing the Council's prerogatives. In essence, the Council's institutional strategy has been to distribute the burden of implementing regional policy upon other public agencies. This has helped minimize the risk of failure by one exclusive agency, as well as provide local governments with an interest to assert in that distribution system.

Finally, it is also evident that participation by various agencies in regional environmental management does not mean identical commitment to regional policy goals. It has taken the Council a long time to recognize that different agencies will respond with varying degrees of initiative, resourcefulness, and followup when purely regional goals are at stake. As an example, when the Council, the Sewer Board, and the MPCA entered into a cooperative arrangement to review sewer permit applications against approved comprehensive sewer plans, the Council assumed that the MPCA would establish a review process to ensure conformance. The MPCA, understaffed and concerned with out-state problems as well, presumed the Council would advise it if noncompliance became an issue. Implementation of approved sewer plans was not an MPCA priority. Yet, this variance is not an unnatural phenomenon between agencies, and its existence has not prevented the Council from working through existing governmental institutions - as it proposed to do in 1975 through its recommendation to the state legislature for mandated local comprehensive plans.

Footnotes

¹Staff memorandum to the Metropolitan Council, May 8, 1972, "Metropolitan Air Quality Control."

²Letter from Albert Hofstede to Grant Merritt, May 8, 1972.

³Laws 1975, Chapter 13, Section 40.

⁴Metropolitan Council, November 14, 1968, "Recommendations for Solid Waste Disposal in the Twin Cities Area," p. 5-8.

⁵Ibid., p. 5-9.

⁶Metropolitan Council, March, 1975, "Study of Solid Waste Management and Resource Recovery in the Twin Cities Metropolitan Area," p. 11.

⁷Metropolitan Council, December 8, 1972, "Metropolitan Council Position Statements on Future Council Structure and Regional Agency Relationships," p. 6.

⁸Letter from Milton Honsey to Steve Aldrich, Staff Counsel,
Minnesota State Senate, March 14, 1973.

⁹Bosselman, Fred, and David Callies, The Quiet Revolution in Land
Use Control, Council on Environmental Quality, Washington D.C., p. 153.

CHAPTER III

SELECTED ANALYSES OF THE METROPOLITAN COUNCIL AS AN ENVIRONMENTAL MANAGEMENT ORGANIZATION

By Michael E. Gleeson

TABLE OF CONTENTS

INTRODUCTION	1
Boundaries	2
Policy/Administration.	2
Footnotes.	4
A MULTI-FUNCTIONAL REGIONAL JURISDICTION	5
Tradeoffs Among Independent Decisions	7
Tradeoffs Among Policy Objectives for a Single Decision .	9
Conclusion	18
Footnotes	19
Appendices -- A: Factors Considered in Evaluation of Housing Proposals	21
B: Section 8 Review Criteria Used by the Metropolitan Council and Council Reaction to HUD Project Funding	25
C: Policy 31 Evaluation Criteria	30
A POLICY-MAKING BODY WITHOUT DIRECT OPERATING AUTHORITY . . .	33
Solid Waste Management	34
Sanitary Sewers.	41
Discussion	42
Footnotes	45

LIST OF TABLES

Table 1: Number of Applications Reviewed & Number Given Critical Comment, By Funding Agency, By Time Period.	5
Table 2: Number of Housing Applications Reviewed by the Council, Number Given Critical Comment & Subsequent HUD Action, By Application Type by Time Period	6

Table 3: Metropolitan Council Findings and Action on Housing A-95 Reviews 1971-1975, and Subsequent HUD Action	11
Table 4: Positive and Negative Factors Stated in Council A-95 Housing Reviews by Type of Project	13
Chart 1: Changes in Council Committee Structure	14
Table 5: Degree of Agreement Between the Metropolitan Council and HUD on Reasons for Decisions	15
Table 6: Ranking of the Top Twenty-five Park Projects Using Recreation Score Alone and a Combined Recreational/Policy 31 Score, 1975.	17
Table 7: Metropolitan Solid Waste Disposal System Capacity, System Plan Requirement and Actual	40

INTRODUCTION

In describing the Metropolitan Council as an environmental management organization, Einsweiler and Ball have sought to place the description in a larger framework, one which could be used to describe other regional environmental management organizations and would allow comparison among them. It was hoped that this framework would provide ways of categorizing the organization and its activities, and that these categories in turn would suggest the options available in designing such organizations. Discussion of the framework and of its usefulness in case descriptions is contained in the epilogue to this report.

This chapter will use the same framework for selected analyses of the Metropolitan Council as an environmental management organization. Use of the framework for analysis (rather than merely for description) requires that the categories used in the framework be tied to predictive theory and evaluative criteria; the categories should not only suggest the options available in designing regional environmental management organizations but also relate to predictions of how these options compare with each other and to criteria for choosing among them.

As described in the introduction to the report, the framework is drawn from a number of sources, but owes a particular debt to Howe and White.¹ Following their suggestions, it places regional environmental management organizations in a residuals generation/discharge process and proceeds to categorize the organization and its activities:

- 1) according to the physical methods used to intervene in the process;
- 2) according to the implementation measures employed in inducing one or more technological options to be used in that intervention;
- 3) according to the institutional arrangements used to accomplish (2).

This chapter will limit its scope of inquiry to the third set of categories, Institutional arrangements. Howe and White classify institutional arrangements as 1) general jurisdiction (national, state, local), 2) limited jurisdiction (national, state, local), and intergovernmental arrangements (cooperative and mandated). This paper will define institutional arrangements more formally, relate classifications of those arrangements to theoretical literature, and use this definition and set of classifications as a basis for selected analyses of the Metropolitan Council as an environmental management organization. In doing so it will be drawing heavily from Haefele.²

Institutional arrangements are defined here as decision-making structures; they are classified according to the relationships between the parties at interest and the decision-makers. The basic questions become: Who are included as the parties at interest? Who are the decision-makers? How do the parties at interest and the decision-makers relate to each other?

Boundaries

The questions are first of all questions of boundaries. Howe and White distinguish between functional boundaries (general and limited jurisdictions) on the one hand, and geographic boundaries (national, state, and local -- including regional -- levels of government) on the other. Haeefele argues for general rather than limited jurisdiction,³ and for government at the regional level to address environmental issues. Drawing on both classical political theory and contemporary public choice theory Haeefele praises the Metropolitan Council, stating:

with a number of independent issues to consider, the council members can make trade-offs over the whole spectrum of issues. They do not have to compromise each special issue to the median position in order to resolve it, neither do they have to let every area have some transit, some parks, or whatever. The systems can each be designed more efficiently overall and the trades serve intensity of interest concerns. In other words, the utility mechanism can work.⁴

Note that Haeefele's predictions about trade-offs and overall efficiency are in direct conflict with the arguments of Lindblom⁵ and his followers, and of Tiebout⁶ and his followers. Lindblom's argument states that public decision-making bodies do and should provide the parties at interest with multiple access points to decision-makers, and that decisions are not and should not be made together as a package by the same decision-makers. Haeefele is adopting a "rational decision-making" model and Lindblom and his followers are adopting a "disjointed incrementalism" model. Both advocates claim that their model is the preferable one. Tiebout argues that fragmented government in metropolitan areas may act like a market which allocates public goods and may indeed do so more efficiently than any multi-functional regional jurisdiction can. Both Tiebout and Haeefele argue from the same base (the "utility mechanism") but come to opposite conclusions.

These arguments help to pose some important and testable hypotheses about the institutional arrangements employed by the Metropolitan Council. Do the parties at interest and the decision-makers relate to each other as Haeefele suggests or rather as Lindblom or Tiebout would suggest? More specifically, does the Metropolitan Council consider independent decisions (from different functional areas and from different geographic areas) together? Do council members make tradeoffs over the whole spectrum of issues? The analysis below is an attempt to test these hypotheses, which in turn is at least a partial test of Haeefele's predictions for the Metropolitan Council.

Policy/Administration

Assuming that the boundaries questions have been settled, there remains another set of questions dealing with the relationship between the policy-makers and those charged with executing that policy. Haeefele distinguishes among legislative, judicial and executive branches of government as locuses of public decision-making. He strongly argues for legislative predominance in public

decision-making, and endorses the structure of the Metropolitan Council because it allows such predominance.

The Council is designed as a policy-making body without direct operating powers (for the most part); those powers are in the hands of subordinate commissions and other units of government. The Council, however, has a variety of mechanisms at its disposal which are designed to retain policy control over the operating agencies.

This model (which has been described as a general contractor/sub-contractor model) seems to be at variance with a whole tradition of descriptive writings in public administration.⁷ These writings would suggest that the dichotomy between policy-making and administration does not hold, that the administrative body does indeed make policy and/or the policy-making body is involved in administration.

This paper will analyze the relationship between the Council and its subordinate commissions and other units of government in two cases significant for environmental management. In doing so it will draw on research which Metropolitan Council staff have undertaken as well as on the descriptive papers by Einsweiler and Ball.

FOOTNOTES

¹Richard S. Howe and Nicholas L. White, Development of Residuals Management Strategies, EPA R-803313-01-1, June, 1975.

²Edwin T. Haefele, Representative Government and Environmental Management (Baltimore: Johns Hopkins Press for Resources for the Future, 1973).

³At least for Policy-making -- implementing agencies may indeed be limited purpose.

⁴Haefele, op. cit., p. 59.

⁵Charles E. Lindblom, 'The Science of 'Muddling Through'', Public Administration Review, Vol. 14, 1959, pp. 79-88; See also Braybrooke & Lindblom, A Strategy of Decision (New York: The Free Press, 1963).

⁶Charles M. Tiebout, 'A Pure Theory of Local Expenditures,' Journal of Political Economy, Vol. 64, October 1956, pp. 416-424.

⁷See for example, F. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), especially Chapter 3.

A MULTI-FUNCTIONAL REGIONAL JURISDICTION

Haefele's predictions for the Metropolitan Council are that it will make tradeoffs across functional and geographic boundaries in making decisions. Independent decisions of different functional questions in different local jurisdictions will be balanced off against each other, and for each independent decision, policies from a variety of functional areas can be applied. Thus, in the first case, for example, sewer construction in one municipality can be balanced off against park acquisition in another. As an example of the second case, environmental, fiscal, and social policies can all be applied to a single decision on a housing construction application.

This part of the paper will attempt to test these predictions of the Council's operation. To do so, one particular implementation measure was chosen--A-95 review procedures. Of all the implementation measures described in Ian Ball's section above, A-95 review is perhaps the most directly transferable to other regional environmental management organizations. It is also an implementation measure which has very active use in a considerable number of functional areas and in regard to a large number of municipalities and counties in the Twin Cities metropolitan area. A-95 review provides a good testing ground for Haefele's predictions.

As the following table indicates, the Council reviews substantial numbers of applications.¹

Table 1: NUMBER OF APPLICATIONS REVIEWED & NUMBER GIVEN CRITICAL COMMENT. BY FUNDING AGENCY, BY TIME PERIOD.

	1971-72		1973-74	
	# of Applications Reviewed	# given critical comment	# of Applications Reviewed	# given critical comment ²
Department of Agriculture	2	0	4	0
Department of Commerce	3	0	2	0
Department of Defense	0	0	0	0
Department of Health, Education and Welfare	35	0	64	8
Department of Housing and Urban Development	250	20	228	9
Department of the Interior	36	0	85	0
Department of Justice	107	14	160	35
Department of Transportation	90	0	58	0
Office of Economic Opportunity	23	0	17	0
Environmental Protection Agency	36	0	13	0
Direct Federal Projects	2	0	1	0
Total	585	34	646	52

Sources: Metropolitan Council Biennial Report, 1971-1972, to the Minnesota Legislature, pp. 26-38; Metropolitan Council Biennial Report to the Minnesota Legislature, 1973-1974, pp. 28-38.

Note that applications to the Department of Housing and Urban Development are the most numerous of any category; within that category housing applications are by far the most numerous. For this reason, and because housing applications come from all parts of the metropolitan area and also because projects raise questions which cross functional lines, housing has been chosen as the subject for more detailed analysis. A-95 review of housing applications also has among the most advance sets of procedures for A-95 review within the Council; moreover the Council has a formal policy tying local provision of low and moderate income housing to A-95 review of other functional areas.

Table 2 outlines the number of housing applications the Council has reviewed, the number given critical comment and subsequent action taken by the U.S. Department of Housing and Urban Development (HUD).

Table 2: NUMBER OF HOUSING APPLICATIONS REVIEWED BY THE COUNCIL, NUMBER GIVEN CRITICAL COMMENT, & SUBSEQUENT HUD ACTION, BY APPLICATION TYPE, BY TIME PERIOD

			# of Applications on which HUD action is consistent with Council recommendation/not consistent with Council recommendation
<u>Application Type</u>	<u># Applications Reviewed</u>	<u># Given Critical Comment</u>	<u>Consistent/Not Consistent</u>
<u>1971-2</u>			
Subdivision feasibility	39	6	6/0
Multi-family mortgage Insurance (274,221d4, 207)	41	8	7/1
Subsidized (236) projects	34	4	4/0
<u>1973-4</u>			
Subdivision feasibility	126	6	5/1
Multi-family mortgage Insurance (234, 221d4, 207)	34	1	1/0
Subsidized (236) projects	25	2	1/1
<u>1975 (Nov. 1, 1974 - Aug. 26, 1975)</u>			
Subdivision feasibility	85	5	4/1
Multi-family mortgage Insurance (234, 221d4, 207)	26	0	--
Subsidized (Section 8) projects: Minn. Housing Finance Agency	9	0	--
Subsidized (Section 8) projects: HUD	20	13	9/4*

*Seven projects were recommended for funding by the Council, one of which has been given preliminary approval by HUD. Thirteen projects were recommended not to be funded by the Council, four of which have been given preliminary approval by HUD (for a total of 5 given preliminary approval).

Sources: Metropolitan Council Biannual Report, 1971-1972, to the Minnesota Legislature, pp. 26-38; Metropolitan Council Biannual Report to the Minnesota Legislature, 1973-1974, pp. 28-38; "Log of Referrals for the Metropolitan Council"; Referral Files; "Study of Residential Projects Found in 'Conflict' with Council Policies," Memorandum from Jackie Cooper, Housing Staff, to the Human Resources Committee, May 9, 1975; telephone interviews with Jack Gilbertson and John Buenger, HUD Area Office, St. Paul, 5 September 1975; telephone calls to certain affected municipalities.

Tradeoffs among Independent Decisions

As Table 1 suggests, the Metropolitan Council makes a large number of independent decisions. The Council, then, has adequate opportunity to make tradeoffs among independent decisions which deal with many functional areas and many geographic areas. The question is whether it takes that opportunity.

To answer the question definitively would require a vote-trading study, which is beyond the time and resource constraints of this analysis. However, there is considerable indirect evidence available on the question. Files on all housing A-95 reviews given critical comment (see Table 2) were read for evidence of tradeoffs: Was mention made of any other independent decision?

Minutes of committee and Council meetings were read for evidence of tradeoffs: Was there mention of other independent decisions made concerning the jurisdiction in question during the A-95 review period (which averaged 5-6 weeks)? Was there any evidence in the minutes or the files that that independent decision was made with reference to the housing review?

This is a very rigorous test. It assumes that evidence of tradeoffs will show up in the public record. It also assumes that evidence of tradeoffs will surface within a limited time span; the chances of two decisions coming up within 30-60 days of each other both dealing with the same municipality are not great. Of the thirty-two (non-Section 8) projects reviewed and given critical comment by the Council, eight were in jurisdictions which had other decisions pending before the Council at the same time. Of these eight projects, no A-95 housing reviews were treated with reference to the other pending decision(s). There was no evidence of cross-reference, much less of any tradeoff--in the files, or in the minutes; John Rutford, chief staff person in charge of all referrals (A-95 and other) over the entire period, reviewed each of the eight instances with the author and concurred with the finding.

However, four of the 32 files did reference other housing decisions previously made by the Council (and/or the jurisdiction and/or HUD) which dealt with the jurisdiction. In two cases, applications for subsidized projects were given critical comment because of overconcentration of subsidized units due to previous actions. In one case, critical comment of a subsidized project application was threatened because of projected overconcentration, then withdrawn when it became clear that a separate subsidized project was not going to develop. In one case, a market-rate subdivision feasibility was given preliminary critical comment because of inadequate provision of low-and-moderate-income housing and then favorable comment after it became clear that a separate application for subsidized housing was proceeding at HUD. In all cases the reference to other decisions was to other housing decisions only; there was no crossing of functional boundaries. Also there was no evidence of tradeoffs being made, merely of other (mostly previous) decisions being taken into account as the matter at hand was being decided.

A somewhat different picture emerges with the Section 8 reviews, however. All 29 of these applications were reviewed at the same time by the Council. This is the only case of joint A-95 review in housing applications; all of the rest were received and reviewed individually. By definition, all applications received and reviewed as a group and competing for the same limited funds are reviewed with reference to each other. Given a specified set of criteria (see appendix B) the Council prioritized the applications, and recommended for or against funding. Within this single functional area of housing, tradeoffs were indeed made across geographic boundaries, some communities' applications given favorable comment and some not. And within communities, some projects were recommended for funding and others not. However, all of this occurred within a single functional area. There is no evidence that any of the communities involved were given or denied favorable comment on housing applications as a tradeoff for other actions on other decisions. In fact, of the nineteen communities which had Section 8 applications, only Minneapolis had any other functional-area matters pending before the Council during the period of consideration of the Section 8 applications--with two exceptions. The exceptions were both massive applications rankings, one for park funding and the other for highway aid. In no instance was there evidence of cross-function tradeoffs from the written files or minutes, or from the observations of staff.³

But again, this is a very rigorous test, involving rather short time spans and presuming that any tradeoffs made would show up in the public record or in the observations of staff. Given the strictness of the test, it is important to note that there is evidence of cross-jurisdictional tradeoffs being made within the single function of housing. However, this only occurs when there is an applications process which allows a number of applications to be considered jointly.

To check this finding from another direction, it is useful to look at other functional areas and the degree to which housing influences decisions there. The Council's Housing Policy 31 states:⁴

In reviewing applications for funding assistance, high priority will be assigned to those governmental units that have codes or ordinances which provide for low-and-moderate-income housing and that are providing or have definite plans for low-and-moderate-income housing.

Thus decisions made in other functional areas are to be made with reference to housing. The effect of this policy is limited, however. The policy refers to giving "priority" to applications from "governmental units." Most categories of applications are not received and reviewed as a group, rather they come in individually, as already noted. This makes efforts to prioritize very difficult. The housing staff does attach Policy 31 comments to such individual reviews (at least to those it is made aware of), but these comments are given little weight in the decision, according to housing staff.⁵

The other difficulty is that some types of applications are not made by geographical jurisdictions exclusively. Applications for aging grants, for example, while received and reviewed in a group, come both from non-profit sponsors and from governmental jurisdictions. This makes uniform and fair application of Policy 31 difficult. Also, the Policy 31 scores (see Appendix C) are computed for municipalities only; this makes use of the scores for review of state, regional, or even county project applications difficult. Finally, it is difficult to tie Policy 31 to applications which do not bear some relationship to housing; for example, it is possible but not likely that a stand on an airport renovation will be taken largely for Policy 31 reasons.

In short, then, Policy 31 is applied to individual applications, but probably without substantial effect. It is applied to group reviews of aging and criminal justice grant applications, but again, not very effectively. Policy 31 was applied to the first round of discretionary community development block grant applications, but HUD only weighted the comments a few points out of a total 100. Parks and open space (group) grant reviews are the area to which Policy 31 has been most successfully applied; this is discussed in more detail below. One area to which Policy 31 has not yet been applied, but to which it may be successfully applied in the future is Federal Aid Urban Highway Aid.

While the effect is limited, this broad requirement of Policy 31 is in itself evidence of the Council's ability and willingness to make tradeoffs across functional areas. Further evidence is in the housing policy itself, which requires that a number of factors, including fiscal effects of providing services, environmental effects, and social impacts, are taken into account in making decisions about housing. Note, however, that we are no longer talking about tradeoffs across decisions but rather about tradeoffs among policy objectives in arriving at a single decision.

Tradeoffs among Policy Objectives for a single Decision

As a multi-functional jurisdiction, the Metropolitan Council has defined a wide range of policy objectives which should be weighed in making decisions on individual A-95 housing referrals. The following is a summary of the factors considered by the Council in evaluating proposals:⁶

- A. Does the project have an acceptable environmental impact?
- B. Is the project protected from negative environmental factors?
- C. Is the project provided with the necessary public utilities?
- D. Is the project well located with respect to necessary residential services and facilities?

- E. Is the project well designed and embodying sound site planning and good architectural treatment?
- F. Is the project consistent with the plans of affected public agencies and units of government?
- G. Does the project help to meet the most urgent unmet housing needs of people within the Area?
- H. Does the project add new kinds of housing to the metropolitan market?
- I. Can the project be characterized as contributing to orderly, economic growth? Is the project consistent with the Council's regional Development Framework policy and plans?

In addition to the above criteria, subsidized housing for low-and-moderate income persons is also evaluated for these additional factors:

- W. How does the project implement the Council's allocation plan (for the distribution of subsidized housing within the metropolitan area)?
- X. Does the project increase the choice of housing locations for low-and-moderate-income people and for minorities?
- Y. Is the project consistent with Council policies in regard to size of project, type of development, persons to be served, and use of rent supplements?
- Z. Does the developer have a record of affirmative action Marketing? Is the project located in the vicinity of employers pledged to affirmative hiring practices?

Using this set of factors, the Council's housing staff reviews applications (and any comments from local officials, human rights organizations, environmental agencies, the developer and other sources) and prepares a report which includes draft comment (favorable comment or critical comment). If the staff recommendation is favorable, it is placed on the Consent List for final approval by the Council with no prior committee action (for the first two years of A-95 Housing Review, favorable staff recommendations were given immediately to the Chairman for approval, by-passing both committee and Council).

If staff review yields a critical comment for the project, or if any person has concerns about the staff findings, the developer and municipal officials are informed and the staff recommendation is referred to the appropriate committee of the Council. The committee hears debate and discussion on the recommendation and then forwards its recommendation to the Council at its next meeting. The Council reviews and may discuss the committee recommendation, and then makes the final and official determination. In only a "very few" cases have staff recommendations which gave critical comment been overturned either by the committee or by the Council.⁸ There have been some cases, "maybe half a dozen in the last 2 years,"⁹ of critical staff comments being changed between the time of first recommendation and Council action, either by modification of the proposal or by receipt of additional information. In both of these limited cases, the results would not show up in the list of projects in Table 3.

The committee structure has changed over time in ways that may influence the findings of this study. Until the spring of 1973, all A-95 reviews (as well as other referrals) were handled by the Council's Referral Committee. Since April, 1973, A-95 reviews and other referrals have been handled by one of two

Table 3: METROPOLITAN COUNCIL FINDINGS AND ACTION ON HOUSING A-95 REVIEWS
1971-1975, AND SUBSEQUENT HUD ACTION

Table 3 Continued

Type of Program	Date of Council Decision	Positive Aspects of Project	Negative Aspects of Project	Metropolitan Council Action	HUD Action	Reasons Given by HUD
1) 207M	8/71	G	C,D	In conflict	Approve	None
2) 207	8/71	D	F,B,E	In conflict	Reject	Q
	10/71	D	F,B,E	In conflict	Reject	F
	1/72	D	None	Not in conflict	Reject	B
	4/72	D	None	Not in conflict	Approve	---
3) 236	10/71	G	X,D,A	In conflict	Reject	No record
4) 207-M	12/71	None	A,F	In conflict	Reject	Q
5) 234	12/71	H,E	G	In conflict	Reject	Q
6) 236	1/72	D	X	In conflict	Reject	Q,X
7) 235	1/72	H	I,C,D,X	In conflict	Reject	C,D
8) 227	1/72	D	A	In conflict	Reject	No record
9) 227	2/72	G	A,F	In conflict	Reject	A
10) 235	3/72	D,F	X If other proposed projects passed projects continue	In conflict, if other proposed projects passed projects continue	Approve	Other projects not continuing
11) Subd.	3/72	E	C,A,B	In conflict	Reject	Q
12) 221d	4/72	G,D	E	In conflict	Reject	No record
13) Subd.	4/72	E,D	F	In conflict	Reject	Q,C,A
14) Subd.	5/72	E,D	G	In conflict, then reverse decision when evidence of a 236 project also being applied for	---	---

Type of Program	Date of Council Decision	Positive Aspects of Project	Negative Aspects of Project	Metropolitan Council Action	HUD Action	Reasons Given by HUD
15) Subd.	5/72	E,D	A,F	In conflict	Reject	No record
16) Subd.	7/72	None	A,F,D,E	In conflict	Reject	No record
17) Subd.	7/72	None	C,D,F	In conflict	Reject	No record
18) 207-M	10/72	G	D,E,I	In conflict	Reject	No record
19) 236	1/73	D	X	In conflict	Approve	No record
20) 236	1/73	D	G,A,F,H	Critical comment	Reject	No record
21) Subd.	2/73	None	C,D,E,B	In conflict	Reject	No record
22) Subd.	3/73	None	C,H	In conflict	Reject	C,H
23) Subd.	10/73	None	A,B,E,F,C	In conflict	Reject	No record
24) 221d	3/74	G,D	E,D	In conflict	Reject	Q
25) Subd.	5/74	None	I	In conflict	Reject	No record
26) Subd.	7/74	None	I,A	In conflict	Approve	Q,A
27) Subd.	8/74	None	I,C	In conflict	Reject	No record
28) Subd.	1/75	None	F	In conflict	Reject	E,Q,C
29) Subd.	6/75	None	I,F,D,C	In conflict	Approve (preliminary)	Q,A
30) Subd.	6/75	None	I,F,D,C	In conflict	Reject	No record

Table 3 Continued

Type of Program	Date of Council Decision	Positive Aspects of Project	Negative Aspects of Project	Metropolitan Council Action	HUD Action	Reasons Given by HUD
31) Subd.	6/75	None	I, F, D, C	In conflict	Reject	No record
32) Subd.	6/75	None	I, F, D, C	In conflict	Reject	No record
33) S	8/75	D, E, A, V, B	V	Critical comments Lower priority	Approve	R, Q
34) S	8/75	D, Y	V	Critical comments Lower priority	Approve	R, Q
35) S	8/75	D, Y	V	Critical comments Lower priority	Reject	R, Q
36) S	8/75	D, B	V	Critical comments Lower priority	Reject	R, Q, E
37) S	8/75	D	V	Critical comments Lower priority	Reject	R, Q
38) S	8/75	D	V	Critical comments Lower priority	Reject	R, Q
39) S	8/75	D	V, F	In conflict	Reject	R, Q
40) S	8/75	D	V, F	In conflict	Approve	R, Q
41) S	8/75	D	V, F	In conflict	Reject	R, Q, W
42) S	8/75	E	D, Y, V	In conflict	Reject	R, Q, D, P, I
43) S	8/75	D	V	In conflict	Approve	R, Q
44) S	8/75	D, V	Y	In conflict	Reject	Y
45) S	8/75	D	Y	In conflict	Reject	R, Q

Notes

Column 1--

Program:

8
207
207-M
221d4
234
236
Subd.
Subsidized Rental Housing Program
Multi-family, Housing Market Rate, Mortgage Insurance Program
Mobile Home Mortgage Insurance Program
Multi-family Housing Mortgage Insurance Program for Low and Moderate Income Persons
Condominium Mortgage Insurance Program
Subsidized Rental Housing Program for Low and Moderate Income Persons
Subdivision Feasibility--Approval of Subdivision for Subsequent Consideration of FHA Insurance for Housing within the Subdivision

Column 3, 4, 7--

Factors:

A. Environmental Impact
B. Protected from negative environmental factors
C. Public Utilities
D. Residential Services
E. Site planning and architectural treatment
F. Consistent with the plans of affected public agencies
G. Social Impact
H. Add new kinds of housing to the metropolitan market
I. Contributing to orderly, economic growth

W. Implement the Council's allocation plan
X. Increase the choice of housing locations for low-and-moderate income people and for minorities
Y. Size of project, type of development, persons to be served, and use of rent supplements
Z. Developer have a record of affirmative action Marketing

Q. Economic Feasibility
R. Reasonableness of Rents

Sources: Referral Files, Table 3.

Table 4: POSITIVE AND NEGATIVE FACTORS STATED IN
COUNCIL A-95 HOUSING REVIEWS BY TYPE OF PROJECT

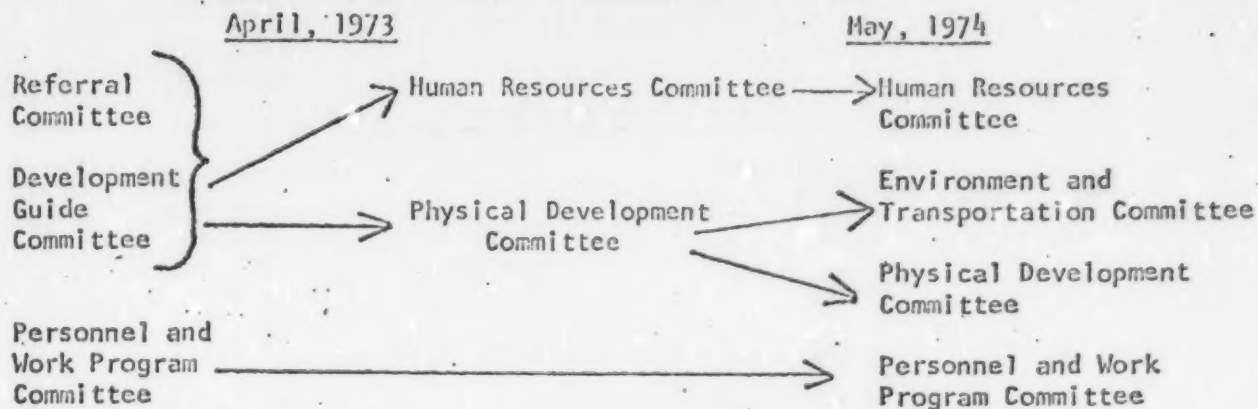
Subsidized Projects		Factor Category	Market-Rate Projects	
<u>Positive</u>	<u>Negative</u>		<u>Negative</u>	<u>Positive</u>
1	2 (0)	A	8 (7)*	0
2	0 (0)	B	5 (0)	0
0	1 (0)	C	11 (5)	0
16	3 (1)	D	10 (1)	8
2	0 (0)	E	8 (2)	5
1	4 (0)	F	14 (4)	0
1	1 (1)	G	2 (2)	5
1	0 (0)	H	1 (0)	1
0	1 (1)	I	8 (8)	0
1	11 (11)	W		
0	5 (4)	X		
3	4 (2)	Y		
0	0 (0)	Z		

Note: Factor categories correspond to those in Table 3.

*Numbers in parentheses are the number of times the factor was
cited first in a list of factors.

or three committees, A-95 housing reviews being handled by the Human Resources Committee.

Chart 1: Changes in Council Committee Structure



It is possible that the dividing up of referral responsibility along functional lines could affect the capability of Council to make tradeoffs. These and other questions are treated on the following pages.

Table 3 displays all of the housing A-95 reviews which the Metropolitan Council has given critical comment since it began making such reviews in 1971 and through August 15, 1975.¹⁰ Using the sources indicated, decisions by the Council and by HUD and stated factors used in arriving at each decision were extracted and displayed. Table 4 tabulates the positive and negative factors considered by the Council.

The Council decisions clearly take into account factors from across functional lines. In the case of subsidized housing, virtually all of the projects were found in conflict for social reasons (G,W,X,Y,Z); on the other hand, the Council noted positive aspects of all projects as well, provision of services and facilities (D), the most commonly noted. In the case of market-rate housing, reasons given for critical comment were more varied: conflict with local or regional development plans (F,I); lack of utilities or services (C,D)¹¹; environmental problems (A,B); and project/site design problems (E). Fewer positive aspects were noted--of 27 projects given critical comment only 13 also had positive aspects noted; the most common were provision of services and facilities (D), project/site designs (E), and social benefits (G).

It is impossible to know how much weight each of the Council members puts on each factor which is stated as a reason for making a decision. And because the written record consists almost exclusively of staff recommendations which are accepted virtually unchanged by committee and Council, it is only assumed that the stated factors are the real reasons for the decisions made. If this assumption is made, however (and there is no evidence to suggest otherwise), it can be said that the Council is at least noting (if not trading-off among) social, fiscal, and environmental aspects of projects--both positive and negative.

The one major aspect which is not considered by the Council is the project's economic feasibility; and it is this reason which HUD has used most often in rejecting projects. Whereas HUD and the Council have made consistent decisions for the most part (Section 8 being the major exception--see Table 3 and Appendix B), they have done so for different reasons. For those cases where HUD reasoning is recorded, the following picture emerges:

Table 5: DEGREE OF AGREEMENT BETWEEN THE METROPOLITAN COUNCIL AND HUD ON REASONS FOR DECISIONS

<u>Council and HUD Both Reject Project</u>	
<u>Council and HUD agree on reasons for decision</u>	<u>Council and HUD do not agree on reasons for decision</u>
5	17
<u>Council Rejects/HUD Approves Project</u>	
<u>Council and HUD agree on reasons for decision</u>	<u>Council and HUD do not agree on reasons for decision</u>
0	5

This is a classic example of different decision-makers using separate criteria to approach the same decision (Lindblom's disjointed decision-making). Perhaps only in contrast to this situation does the strength of Haefele's argument come through. The Council can and seemingly does consider social, fiscal and environmental factors in making its decision; while it does not consider all factors (including economic feasibility, for example), it does consider a wide range of factors.

However, the Council's ability to consider multiple factors is closely constrained by the time deadlines imposed in the A-95 Housing Review process. For the first 2 years of the process, the Council was limited to 15 days for each review; since then the limit has been 30 days (though only half of those projects for which records are available were actually reviewed within 30 days). This severely limits the attention which Council members can give each review. According to Trudy McFall, Housing Program Manager during the entire period the Council has been making reviews, trade-offs are made among factors for each decision. However, "they are almost always made at the staff level."¹² Time and the inability of housing staff to affect committee agendas inhibit the committee's ability to consider such tradeoffs themselves. Another inhibiting factor is the scale of the decisions¹³; they are not major decisions in themselves and they often do not carry substantial weight with the Federal agencies. Only when a number of such decisions can be made together (as with Section 8 applications) or when such a decision can be used to mark a change in Council policy (as with the application of the development framework policies to rural subdivision feasibility reviews) is it worth substantial Council time and effort.

There have been some extensive changes over time in the factors given weight in housing reviews. The early reviews gave primary weight to environmental impact (A) and provision of utilities (C). Only with an

improved low-and-moderate-income housing allocation plan adopted in January, 1973, did social factors (G,W,X,Y,Z) become frequently cited. (Of the 19 reviews prior to 1/73, 4 cited social factors; of the 27 reviews since, 15 cited social factors). Only with consideration and adoption of the development framework were regional plans (I) frequently cited (of the 25 reviews prior to 3/74, 2 cited I; of the 22 reviews since, 7 cited I, and with only market-rate projects included, 7 cited I out of 9 reviews.) As the development framework was used increasingly, environmental impacts (A) were less frequently cited (9 of 25 reviews prior to 3/74; none of 22 reviews since); provision of utilities (C) has continued to be cited, however (5 of 25 prior to 3/73; 4 of 22 since). Trudy McFall explains the decline in citing environmental impact (A) by differences in the explicitness of Council policy; environmental policies do not contain standards which can be easily applied to housing reviews whereas the development framework does. She finds it "hard to win controversial issues on an environmental basis."¹⁴

Contrary to expectation, the change in committee structure (3/73) seems to have made no difference in the range of factors considered in deciding on a single housing review. There is at least as wide a range of factors cited after the split into multiple A-95 review committees as there were when all reviews were considered before the same committee. Perhaps this speaks to the important role of the staff (which did not change as the committee structure did).

As in the section on tradeoffs among decisions, it is useful here to investigate how housing is taken into account in A-95 reviews in other functional areas. Policy 31 requires that a municipality's effort to house low-and-moderate income persons be taken into account in such reviews. Perhaps the best functional area for an investigation of actual practice is A-95 review of parks and open-space grant applications. This is the area which has used policy 31 the longest, most formally, and most publicly.

Prior to 1973, the parks and open space grants were reviewed individually. During that time only one application was found "in conflict" due to the municipality's performance under Policy 31; this was a widely debated and "largely symbolic" decision.¹⁵ Beginning in 1973, such applications were reviewed as a group and ranked; the Council's Physical Development Committee was the responsible committee. Due to a very public debate over the application of Policy 31 to a park for the handicapped (seen by some as part of a regional facility, but located in a municipality with low performance regarding Policy 31) the committee decided not to use Policy 31 for any of its park reviews. In 1974, reviews became the responsibility of the Environment and Transportation committee, which wanted to use Policy 31, but as one factor among many rather than as an override (which is how the policy is stated). A compromise was worked out whereby a Policy 31 bonus or penalty of 10 points was applied to the recreation score to arrive at the overall score. This compromise was further refined for the 1975 parks review. In late 1974, the Council devised and adopted a system for measuring low-and-moderated-income-housing-effort which provided a score for each municipality (see appendix C). In making its 1975 park rankings, the committee and the Council weighted the total park score as 1/3 Policy 31 score and 2/3 recreation score. This is a very explicit committee/council-mandated tradeoff among factors used to arrive at a single decision. The following table suggests the impact of making such tradeoffs on the top twenty-five applications (only some 25 of the 71 applications are likely to be funded):

Table 6: RANKING OF THE TOP TWENTY-FIVE PARK PROJECTS USING RECREATION SCORE ALONE AND A COMBINED RECREATIONAL/POLICY 31 SCORE, 1975

<u>Ranking Using Recreation Score</u>	<u>Ranking Using Combined Recreation/Policy 31 Score</u>
1	2
2	3
3	7
4	4
5	5
6	8
7	9
8	10
9	14
10	15
11	12
12	26
13	13
14	25
15	19
16	11
17	1
18	33
19	6
20	32
21	23
22	31
23	34
24	37
25	17

Source: "Recommendations on Review and Priorities of Applications for Local Park Funds," Memorandum from Metropolitan Parks and Open Space Commission to Environmental and Transportation Committee, September 25, 1975, pp. 13-14.

Though no projects have received a critical comment in the parks review since 1972, the ranking of projects and limitation of funds combine to have the same effect. In 1973 some 7 projects were funded, of 22 ranked; one of the seven would have been technically in conflict with Policy 31 if that policy had been applied. In 1974, some 11 projects were funded, of 37 ranked; no projects in conflict with Policy 31 were funded.¹⁶

Conclusions

An investigation of A-95 reviews conducted by the Metropolitan Council provides a partial test of Haeefe's predictions. There is evidence of tradeoffs having been made across geographic boundaries within the single functional area of housing; this situation only occurred, however, when there was an applications process which allowed a number of applications to be considered jointly. There is no evidence of tradeoffs having been made among independent decisions which crossed functional boundaries.

In making single independent decisions on housing applications, the Council can and seemingly did note -- if not trade off among -- social, fiscal, and environmental factors in making its decision; while it did not consider all factors (including economic feasibility, for example) it did consider both the positive and negative aspects of a wide range of factors. However, the Council has been limited in its ability to make tradeoffs by the constraints imposed by the A-95 review process. Time deadlines have forced staff to take a leading role in the making of tradeoffs. The scale of the decisions and the seriousness with which A-95 review comments are taken by the Federal agencies are other inhibiting factors; A-95 review is seen to merit substantial Council time and effort only if groups of applications can be treated together or if the review is used to signal the Council's special interest in some particular Council policy. Also, the weights given different factors have varied with the type of housing proposed--subsidized or unsubsidized, and with the explicitness and measurability of the factor.

At a broad policy level the Council has stated its willingness to take low-and-moderate-income housing effort into account in prioritizing applications for grants not directly related to housing. In practice, this policy has been applied successfully only to a limited number of applications in certain functional areas. The policy has been applied successfully to certain park applications; in fact, the tradeoff between low-and-moderate-income-housing effort and the other major factor considered (recreation score) has been made explicit--one-third, two-thirds.

All of this evidence has faced fairly rigorous tests. Together it must provide at least indirect and limited confirmation of Haeefe's predictions.

Footnotes

¹Council decisions are not limited to A-95 Reviews and include at least the following:

	<u>71-2</u>	<u>73-4</u>
Reviews of Plans and Programs of Independent Agencies	37	30
Reviews of Plans and Programs of Municipalities & Other Matters Affecting Metropolitan Area Development		
A. Local Plans and other matters	44	38
B. Comprehensive Sewer Plans	104	16
Reviews Under the Solid Waste Disposal Act	40	16
Reviews Under Certificate of Need Act	58	98

²The number of projects given critical comment may be somewhat underestimated in the table. For example, the reviews given the Department of Interior (Outdoor Recreation - LAWCON) applications yielded no critical comments. However, since 1973 projects have been ranked, and because funds do not extend over the full list of applications, ranking serves the same purpose as critical comments. Lawcon applications are able to be ranked because there is a set applications cycle and all applications are reviewed at once by the Council. This is not the case with most categories of applications, which are received and reviewed individually. The effects of applications cycles and joint review of applications are discussed more fully below.

³Interviews with: Trudy McFall, Housing Program Manager, 26 August 1975; John Rutford, Referral Coordinator, 8 September 1975; Elaine Stanley, Planner, Parks and Open Space Program, 5 September 1975.

⁴Metropolitan Council, Development Guide: Housing--Policy Plan, Program (1973), p. 27.

⁵Interviews with Trudy McFall, 25 August 1975 and 31 December 1975.

⁶Metropolitan Development Guide: Housing--Policy Plan, Program, April, 1975, pp. 78ff. Other relevant documents include: Metropolitan Development Guide: Housing--Policies, System Plan, Program, February, 1971; Housing Review Manual, June, 1972; Metropolitan Development Guide: Housing--Policy Plan, Program, June, 1973; Housing Review Manual, January, 1975; "Procedures for Application of Development Framework Policy to A-95 Housing Reviews", June, 1975. For a more detailed list see Appendix A.

⁷This second sentence is a specification of the first; it was applied to A-95 housing referrals beginning in 1975.

⁸ Interview with Trudy McFall, 26 August 1975. Likewise, in only one case has the Council given a critical comment to a project which staff had found "not in conflict," and this was a complex case in which staff had earlier found the project "in conflict."

⁹ Ibid.

¹⁰ Table 3 excludes one public housing project, the only public housing project given critical comment and on which documentation is only partial.

¹¹ It is interesting that I and C are related--of 15 cases where either is mentioned, both are mentioned in 5. Comparable findings for other combinations are: Environment (A) and Utilities (C)--2 of 21; Environment (A) and Metro-Plans (I)--1 of 20; Social (G,W,X,Y,Z) and Services (D)--4 of 28.

¹² Interview, 26 August 1975.

¹³ Interview with John Rutford, 8 September 1975.

¹⁴ Interview, 26 August 1975.

¹⁵ Interview with Trudy McFall, 26 August 1975.

¹⁶ Interview with Elaine Stanley, 5 September 1975.

APPENDIX A: Factors Considered in Evaluation of Housing Proposals

The fundamental criterion for evaluating housing projects is the Housing Chapter of the Council's *Metropolitan Development Guide*.

In addition, housing proposals are evaluated in light of any housing-related policies which may appear in other chapters of the *Metropolitan Development Guide*, including, but not limited to, those on sanitary sewers, solid waste disposal, parks and open space, transportation, and major diversified centers.

In interpreting and applying the Guide to housing referrals, the Council looks at several factors to arrive at its recommendations. These factors are summarized below in order to assist developers and others interested in anticipating the Council's response to a particular project. These questions have proven to be valuable in determining how a project is ranked.

A. Does the project have an acceptable environmental impact?

The project should be shown to make maximum use of and cause the least disturbance to the natural environment. Of particular concern are soil type and condition, topography of the site and surrounding area, and the project's conformance to and maintenance of the site's features. Floodplains, wetlands, and other areas which serve natural ecological functions, if affected by the projects, must be protected. The Open Space Chapter of the *Metropolitan Development Guide* may also be consulted for further information.

B. Is the project protected from negative environmental factors?

The project should be shown to be free of natural or man-made conditions that would be detrimental to an otherwise sound project. Of particular concern in making this assessment are surrounding land uses, such as industrial or commercial uses, railroads, highways, airports or other potentially detrimental uses that could adversely affect the project. Where these uses occur and can be modified, guarantees of proper buffering or construction treatment should be provided.

C. Is the project provided with the necessary public utilities?

Sewer and water service to the site should be assessed for both accessibility and capacity to serve the project. Sewers should be linked to a public system and included in a Sewer Board-approved local comprehensive sewer plan. The Sanitary Sewers Chapter of the *Metropolitan Development Guide* contains policies related to the location of septic tanks, the timing of installation of trunk and lateral sewers, a set of priorities for expanding sewer service in the region, the phasing of interceptor extensions, local governmental capability to operate municipal services, and requirements for a local comprehensive sewer plan. The Sewer Chapter may be consulted for further information.

D. Is the project well located with respect to necessary residential services and facilities?

Projects should be located within reasonable distance of the support services and facilities such as employment opportunities, schools, parks, transit, highways, retail shopping, day care facilities, and recreational and cultural opportunities. These services should be determined to be of a capacity to absorb the population generated by each development. Plans for the provision of such services at a definite time in the future will be given full consideration. See the Housing Chapter for guidelines of desirable levels of accessibility to various services.

E. Is the project well designed and embodying sound site planning and good architectural treatment?

Projects should meet high quality standards. Specifically, the project should make optimum use of the site's natural contours, maximize residential safety and privacy through good pedestrian and vehicular systems, proper construction techniques and, in general, promote a visually pleasant, high quality living environment. The project should be well located in proper relation to the site, natural amenities, and surrounding land uses.

F. *Is the project consistent with the plans of affected public agencies and units of government?*

Every effort should be made to ensure that the project is compatible with the municipal comprehensive plans and ordinances, county and metropolitan plans, and plans of public agencies within whose jurisdiction the project falls.

G. *Does the project help to meet the most urgent unmet housing needs of people within the Area?*

Each project should be examined for its responsiveness to the regional housing need in order to avoid duplication or overbuilding of any single type, size, or cost of housing. Housing for lower-income persons, the housing need least met by the private housing market, is a special concern. Such housing should be located in well-served areas, should increase diversity of locational choice and choice between home ownership and rental, and should clearly respond to the housing needs of low-and-moderate income persons in terms of bedroom size, construction type and cost. Large-scale developments should include housing for a full range of incomes.

H. *Does the project add new kinds of housing to the metropolitan market?*

Encouragement is given to projects which promote innovative development concepts such as condominiums, cooperatives, townhouses, and quadraminiums, and planned unit developments which will further diversify the regional housing supply and offer new housing opportunity for Area residents.

I. *Can the project be characterized as contributing to orderly, economic growth? Is the project consistent with the Council's regional Development Framework policy and plans?*

Each project should promote economy of the public investment, should be located in well-served areas, and should be generally within or adjacent to the existing metropolitan urbanized areas. Development proposed

in "leapfrog" fashion in basically undeveloped areas remote from the urban area is strongly discouraged. Serious questions are raised about the project if it requires extensive road, sewer, or other public service extensions, and is outside the urban service areas designated by the Council. It should be noted that when the Development Framework plan and the metropolitan significance provisions are adopted, there may be some changes in this section.

Subsidized Housing

In the case of subsidized housing proposals, the Council takes into consideration other important factors besides the ones indicated above. Because of the limited amount of federal funds available for such housing projects in the Metropolitan Area, not all applications for such funds can be approved. Therefore, the Council has found that its comments and recommendations are most effective if they can provide a basis for allocating a limited amount of federal housing funds among competing applications.

The Council has developed an "allocation plan" that assigns quantitative goals to sub-sectors in the Area and identifies priority areas within the sub-sectors. The plan works to achieve a reasonable distribution of units throughout the Metropolitan Area while ensuring that within a given sector of the Area subsidized housing proposals will be encouraged in the best serviced locations.

The Council has selected seven sub-sectors in addition to the two center cities (see Map 2, page 8) that are geographic units specific enough to be useful in dispersing low-and-moderate income housing. Sub-sectors 1-6 are essentially the urbanized portions of the region within which the vast majority of all new subsidized housing development should occur. Sub-sector 7 consists of the large rural portion of the Area where adequate services and facilities do not generally exist to support subsidized housing. However, within that sub-sector are older freestanding communities that have housing problems. A number of these rural communities have established HRA's, and some funds should be allocated to support these programs.



Each area with the exception of the rural areas is assigned a proportion of the new subsidized housing in direct relation to share of the present population, share of expected new residential growth, share of present jobs and share of expected new jobs. This formula, in effect, assigns subsidized housing units in relationship to present and future growth and development within the Metropolitan Area.

The plan also assigns every municipality within each of the sub-sectors to one of four priority areas, depending on the availability of various services and facilities present in the community, including shopping centers, sewer and water service, major highways, transit, employment, and others. Map 2 on page 8 details the sub-sector allocations and priority classifications within the Area.

The allocation plan provides a general framework for making more rational decisions regarding the general location of a subsidized housing proposal. Naturally, projects must also be found acceptable on their individual merits. For example, a proposal of a project that would be located in a floodplain, would seriously damage the environment, or would be built in a totally unacceptable location, would be given a negative review regardless of what priority area the project would be in.

The Council also considers whether the subsidized project includes opportunities for families with children as well as for elderly persons; incorporates innovative design features and housing types, such as townhouses; provides for rent supplements; and other factors.

In short, the allocation plan does not replace the necessity for careful and detailed reviews of each project, but it does provide a plan to evaluate a number of generally acceptable proposals.

In addition to the general housing review criteria, subsidized housing for low-and-moderate income persons is evaluated for these factors:

W. How does the project implement the Council's allocation plan?

Each subsidized project is evaluated for its consistency with the Council's plan for distribution of subsidized housing. Top priority projects are consistent with that plan.

In particular, projects that are proposed for close-in suburban locations with limited low-and-moderate income housing receive high consideration, as do proposed developments which are part of urban renewal redevelopment programs required to meet relocation needs.

X. Does the project increase the choice of housing locations for low-and-moderate income people and for minorities?

Subsidized projects, particularly in redevelopment areas and areas of minority populations, may become highly concentrated within a single area or neighborhood to the extent that the area becomes known as one of subsidized housing. Every effort should be made to ensure that this situation does not occur.

Y. Is the project consistent with Council policies in regard to size of project, type of development, persons to be served, and use of rent supplements?

Housing developments that will serve families are strongly encouraged not to exceed 100 units. They should be townhouses, garden apartments, or other housing types deemed suitable for and desired by families. Further considerations include whether the development will serve families or the elderly and the income range it will serve. Because family and lower income needs are least served by the subsidized housing programs, developments that include housing for these populations are strongly encouraged.

Z. Does the developer have a record of affirmative action marketing? Is the project located in the vicinity of employers pledged to affirmative hiring practices?

Source: Housing Review Manual, January, 1975, pp. 5-9.

APPENDIX B: Section 8 Review Criteria Used by the Metropolitan Council and Council Reaction to HUD Project Funding

I. Criteria for Reviewing Section 8 Proposals

Procedures for Prioritizing

In-reviewing the applications it was clear that a large number of the developments were being proposed on fine sites and with generally high levels of services. It was clear that a system of prioritizing based on the various Council policies and plans was needed to provide an orderly and fair means of making recommendations for funding. The Council's Housing Guide does contain policies or plans which suggest priorities; these are ordered as a means of providing a decision-making framework for Council recommendations as follows:

1. Priority area according to the Council's allocation plan for subsidized housing.

Projects are ordered according to the priority of the community in which they are proposed. The allocation plan is the single most important guiding principle for Council decision-making on subsidized housing.

2. Family housing

The Council has strong policy and precedent for encouraging family subsidized housing. The allocation plan provides that 50 per cent of the funding should be for families. To achieve this given the limited applications for family units it is necessary to give priority to family units over elderly.

3. Elderly projects which would diversify a community's housing.

Among the elderly proposals priority would go to those developments which would diversify the subsidized housing. In other words, a community which already has subsidized family units, but no elderly would receive priority for funding of an elderly project. This is consistent with the Council's intent to encourage family housing by giving priority to an elderly project when a community has already met its obligation to family housing.

4. Elderly projects when the community has no other subsidized housing.

Last on the list of priorities would be a development for the elderly when it is the first proposal in a community. This low priority is consistent with the intent to encourage family units and to provide incentives to communities which have provided family housing in the past.

To illustrate, this list of priorities would then result in the following prioritization: family proposals in first priority communities, elderly proposals in first priority communities with existing family subsidized housing, elderly proposals in first priority communities with no subsidized housing, family proposals in second priority communities, etc.

This prioritizing system seems to work well and represent Council policies, with the exception that in order to meet the 50 per cent family goal the Council may need to give priority to family proposals regardless of their allocation plan priority. If there were a large number of elderly proposals meeting the priority criteria in high priority communities, it might be that there would be insufficient funding to fund family units in a third priority community. (This is not the case in this funding cycle, but the Council should be on record that if it were necessary it would set aside priority area criteria to meet the 50 per cent family goal.)

In Conflict Recommendations

In addition to the guidelines for prioritizing for funding, there are a number of Council policies which could result in a "in conflict" recommendation being given. The "in conflict" recommendations means essentially that the Council would not wish to see the project funded, not simply that it has low priority for funding. This recommendation could be given for the following reasons:

1. Inadequacies of the site or level of services, negative environmental impact, etc.

These reasons are historically the major reason for A-95 in conflict recommendations.

2. Proposal exceeds the allocation plan distribution.

This could be, as the example in this funding cycle, when proposals are submitted in Minneapolis which exceed the community's allocated number of units according to the Council's allocation plan.

3. Proposal would be the second elderly subsidized housing project in a community which has no family units.

Council policy states that communities should provide family and elderly units and the Council has approved elderly projects in communities only with the clear provision that any future requests for subsidized housing should be for families.

It is therefore proposed that all second proposals be found in conflict until such time as the community provides an equal balance of family units.

Only one suburb, South St. Paul, has two elderly subsidized developments; they were approved years ago prior to the time A-95 review was instituted. The Council may wish to adopt this approach on the provision that if units were to be totally lost to the area because no other recommended projects could be found economically feasible to HUD, it would relax this restriction.

Without such an approach, it is unlikely that the Council could carry out its policies in regard to stimulating family housing.

Source: Report of the Human Resources Committee Referral Report No. 75-57, August 8, 1975.

II. Metropolitan Council Resolution Regarding HUD Project Funding and the A-95 Review Process

WHEREAS, the Metropolitan Council has diligently and carefully reviewed proposed housing projects in the metropolitan area which will provide rent subsidies under Section 8 of the Housing and Community Development Act of 1974, and has provided recommendations on such projects as to their consistency with metropolitan development plans to the HUD Area Office, in accordance with the provisions of OMB Circular A-95; and,

WHEREAS, the HUD Area Office, in its review of such projects is to evaluate each proposal on the basis of "the best combination of rent, site, design and previous experience of the proposed Owner and on the basis of comments, if any, received during the response periods from the appropriate A-95 clearinghouse and the unit of general local government", according to Title 24 of the Code of Federal Regulations Section 880.208(c); and,

WHEREAS, the HUD Area Office has given preliminary approval to two proposed projects which were determined to be in conflict with metropolitan development plans, and has given preliminary approval to only one project out of all those found positively consistent with metropolitan development plans which action appears to be contrary to the regulations cited above and which renders the A-95 review process ineffective and a waste of time; and

WHEREAS, of the proposed projects which were given preliminary approval by the HUD Area Office, only 49% of the units were found consistent with metropolitan development plans, while 51% of the units approved by HUD were found in conflict with metropolitan development plans, and

WHEREAS, an additional 300 subsidized housing units are proposed to be transferred from the HUD Area Office to the Minnesota Housing Finance Agency for use in a project in Minneapolis which, if carried out, would mean that Minneapolis would be allocated 162% of its share of subsidized units according to the Council's Allocation Plan; and,

WHEREAS, these funding decisions violate a number of important Metropolitan Council plans and policies as follows:

- The funding for Minneapolis greatly exceeds that allocated to the city under the Council's allocation plan continuing the over concentration of low income units in Minneapolis, and depriving suburban areas of the opportunity to provide subsidized housing.
- The funding for Forest Lake exceeds the allocation for rural areas and will result in 12 per cent of Forest Lake's housing being subsidized, the highest percentage of any community in the metropolitan area.
- The funding provides only 125 units for family, 16 per cent of the total funding, whereas the Council recommended 301 family units for funding.

NOW THEREFORE BE IT RESOLVED by the Metropolitan Council as follows;

1. That HUD has failed to consider the A-95 review comments in its funding decision and has significantly violated important Metropolitan Council housing and Development Framework policies and plans.
2. That HUD has further failed to follow Federal Regulations which require that "the best combination" of factors including A-95 review comments, be used in the evaluation of projects.
3. That the Metropolitan Council urges HUD to withdraw their approval of those projects found in conflict with Metropolitan Council plans & policies.
4. That a detailed explanation of the criteria and method of selection which HUD used in giving preliminary approval to the projects be given to the Metropolitan Council.

5. That staff is directed to prepare a report and recommendations for further action to assure that metropolitan plans will be carried out.
6. That the Chairman is directed to forward copies of this Resolution and appropriate explanation to the appropriate Congressional delegation, the Secretary of HUD, and to the HUD Regional Administrator conveying our deep concern and demanding a full and complete explanation of this HUD funding decision.

Approved August 21, 1975.

APPENDIX C: Policy 31 Evaluation Criteria

The following are the factors which the Metropolitan Council considers in evaluating a community's housing performance. The relative weight of each factor is also given.

Maximum Points

EXISTING HOUSING

Low Income

- 1 to 10 — Municipalities ranked according to per cent of total housing in price range affordable by low income persons. (Units renting for \$119 or less, or valued at \$12,500 or less, 1970 Census)

(In addition, the per cent of units that are substandard is subtracted, and the per cent of mobile homes is added to arrive at a total percentage.)

Moderate Income

- 1 to 10 — Municipalities ranked according to per cent of total housing in price range affordable by moderate income persons. (Units renting for \$199 or less, or valued at \$19,999 or less, 1970 Census)

EXISTING SUBSIDIZED HOUSING

Low Income

- 1 to 10 — Municipalities ranked according to per cent of subsidized units constructed, purchased, or approved by the funding agency for construction or purchase in the community for low income and/or disabled persons. (Includes HUD low rent public housing, rent supplement projects, and housing assistance payments for very low income persons; residential units purchased with the assistance of federal, state, or county funds and used for the placement of adult offenders or adjudicated delinquents; and publicly-subsidized group homes licensed by the Department of Health and the Department of Public Welfare which provide temporary or permanent housing for mentally ill, mentally retarded, and chemically dependent low-income persons.)

Responds to Family Needs

- 5 — Communities which have 1 per cent or more of total housing stock available for low income subsidized persons, may receive an additional 5 points if 20 per cent or more of such housing are designated as family public housing units.

Moderate Income

- 1 to 10 — Municipalities ranked according to per cent of subsidized units constructed or approved by HUD for construction in the community for moderate income persons. (Includes Section 235, 236, and 221d3 projects.)

Responds to Family Needs

- 5 — Communities which have 1 per cent or more of total housing stock available for moderate income subsidized persons, may receive an additional 5 points if 20 per cent or more of such housing are units with 2 bedrooms or more for non-elderly families.

PROPOSED SUBSIDIZED HOUSING PROJECT

- 5 — Project or application for subsidy funds was approved by governing body within past 2 years but was rejected by HUD or was still awaiting a decision at HUD.

HOUSING AND REDEVELOPMENT AUTHORITY

- 5 — Community has:
- (1) Established a local HRA and appointed a Board of Commissioners. If an HRA is established, but subsequently the terms of appointment expire without reappointment, and Board meetings become very infrequent, if at all, the HRA is considered *inactive* and points would not be awarded; or
 - (2) Entered into a cooperation agreement with another local HRA or county HRA to carry out low income housing programs in the community; or

- (3) Entered into a cooperation agreement with Metro HRA to carry out low income housing programs in the community.

22 (Total) CODES AND ORDINANCES

Points allowed for provisions in existing codes and ordinances which facilitate low-and-moderate-income housing including:

- 5 points -- PUD Ordinance (i.e., provisions within zoning ordinance or a separate ordinance which permit flexibility in density and type of dwellings within designated areas).
- 7 points -- Specific provisions for low and moderate cost housing (i.e., percentage requirements for subsidized units in large developments; specific variance of certain code items for subsidized developments, including reduction in parking or garage requirements, or floor area, or lot requirements).
- 5 points -- Housing maintenance code adopted.
- 5 points -- Active code enforcement, urban renewal, or other program to eliminate sub-standard housing.

HOUSING PLANS

- As contained within a municipal comprehensive plan, adopted municipal resolution, or housing assistance plan as part of a Community Development Application.
- 2 points -- Policies directed toward a diversity of housing costs and types (i.e., for a broad range of incomes and family sizes, and in particular for low-and-moderate-income families).

- 4 points -- Quantifiable housing goals (i.e., projected numbers of housing units needed by size and type of unit, for families and elderly, low income as well as moderate income; and which take into account metropolitan needs as well as local needs. These may be short range as well as long range goals).

- 4 points -- Specific implementation program (i.e., identification of detailed programs, plans, strategies, and timing for the use of federal, state, or local level, public or private resources necessary to meet the quantifiable housing goals. These may be short range as well as long range programs, but should relate clearly to the achievement of identified goals).

LOCALLY FUNDED EFFORTS TO LOWER HOUSING COSTS

- 8 -- Efforts or actions which reduce housing costs for low and moderate income persons, but which are not covered in the criteria outlined above (i.e., using local funds from mill levy or revenue sharing to operate a leased housing program, or to write-down land costs or improvement costs which then facilitates the construction of housing within the price range of low and moderate income persons).

100

TOTAL MAXIMUM POINTS

Source: Metropolitan Development Guide, Housing Chapter, pp. 57-59 (4/75)

A POLICY-MAKING BODY WITHOUT DIRECT OPERATING AUTHORITY

The first study in this chapter dealt with one special characteristic of the Metropolitan Council as an environmental management organization--its being a multi-functional regional jurisdiction. This second study deals with another special characteristic of the Council--its being a policy-making body without direct operating authority. Actually, this is a slight overstatement of the situation; the Council has been given some direct operating authority in housing. But in the main, this is a fair characterization of the Council as it was originally set up (see Chapter I above) and as it operates today.

This characteristic of the Council is very important because it increases the transferability of the Council's institutional arrangements to other regions. It also increases the possibilities of this institutional arrangement taking on the full range of environmental management, both in the Minneapolis-St. Paul region and in other regions. These possibilities are increased because most metropolitan areas (including Minneapolis-St. Paul) already have institutions in place which would have a claim on operating one of the environmental management functions. It is unlikely that these existing institutions can be uprooted and redesigned from scratch. The Council's institutional arrangements do not necessitate that existing agencies be up-rooted, merely that they come under its policy influence.

While it may not be practical or even desirable to uproot existing agencies, it may well be desirable to have them under the policy influence of a single, multi-functional regional body. At least this is the argument made very strongly by Haeefe, as we have seen. Haeefe also makes the strong argument that this environmental management organization be legislatively dominated, that policy be indeed set by the policy-making body and not by administrators hidden in an institutional maze and beyond democratic controls. Haeefe points to the Metropolitan Council as just such an organization.

But as discussed above, this arrangement would seem to be an untenable one from the viewpoint of public administration theory. The dichotomy between policy and administration does not hold, according to a whole tradition of descriptive writings.¹ Administrators in fact do make policy. No one has settled the question of how democratic control is maintained in the face of this situation, but they agree that the situation exists.²

In very practical terms, we must ask if the Council's set of relationships with the operating agencies is tenable, if policy is being made by the Council and carried out by the operating bodies, or whether policy is actually being made by the operating bodies themselves.

One way of investigating this question is to identify stated policy objectives of the Council and contrast those with actual output of the operating agencies. Any deviation of the output from the policy objective could be investigated for cause, either informally and intuitively, or more formally in the context of social science theories.³

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Tests could be made on the various and conflicting expectations regarding this deviation. It could be tested if there is indeed any deviation at all (as the policy-administration dichotomy would suggest there is not). It could be tested if the deviation is related to varying levels and kinds of control mechanisms (e.g., rules, organizational structure, supervision, recruitment, training, and evaluation-reward-sanction systems); the expectation is that control mechanisms allow approximation of a policy-administration dichotomy. It can be tested if the deviation varies with the type of client served, with the type of administrator, or with the interaction of the type of client and the type of administrator (as the notion of a democratic alternative in the form of a pluralistic, representative bureaucracy would suggest).⁴ It can be tested if the deviations vary with factors beyond democratic control, such as personal preferences of administrators or goals of the work group.⁵ Finally, it can be tested if the results of these tests vary with explicitness of policy objective,⁶ with type of policy area,⁷ or with physical method and/or implementation mechanism (as defined in this report).

Time and resource constraints make original research on these questions impossible. However, Council staff have made two studies which shed light on these questions. Also, the previous chapters by Einsweiler and Ball and the previous study in this chapter provide some evidence on these questions.

The two staff studies are very different from each other. One is an evaluation of the Council's solid waste management policies, system plan and implementation program.⁸ The other is a report on the comprehensive sewer plan review and implementation procedures as evolved by the Council, the Metropolitan Sewer Board, the Minnesota Pollution Control Agency, and local governments.⁹ The solid waste study contrasts policy objectives and actual implementation; the sewer plan review study focuses on the procedures used to tie policy objectives to implementation but does not deal directly with actual output.

Solid Waste Management

As discussed above,¹⁰ the Council adopted its "comprehensive plan for the safe and economic disposal of solid waste generated in the Metropolitan Area" in 1970.¹¹ That plan consisted of 1) a set of policies "that serve as guidelines for planning and operating a solid waste disposal system", 2) a System Plan "which is a 10-year plan for the disposal of solid waste generated in the Metropolitan Area," and 3) a Development Program, "the timetable to implement the plan."

In summer and fall of 1973, an internal staff study attempted to evaluate plan implementation, to determine to what extent the Council's plan had become reality. The study report was never given a complete review by senior staff, and was never published as a Council document. It remains, however, the only written attempt to evaluate the implementation of Council policy. The major investigator on the evaluation was Peggy Reichert, who used written reports, interviews and site inspections of sanitary landfills as her data source. What follows is a summary of the study findings. Keep in mind that this study was completed in 1973 and that no attempt is made here to up-date that study. It is merely a reporting of the findings for purposes of this paper's investigation.

Policies: Disposal Methods

- 1) Establish a system of sanitary landfills and transfer stations adequate for solid waste disposal through the late 1970's.
- 2) Phase out public and private incineration operations that do not conform to state and federal air pollution standards.
- 3) Stockpile or dispose of hazardous and toxic wastes in a safe and nuisance-free manner, and do not mix them with other wastes in sanitary landfills except as approved by the Minnesota Pollution Control Agency.
- 4) Salvage junked vehicles for productive reuse.
- 5) Salvage solid fill and tree wastes for reuse, but permit any excess amount of solid fill or tree wastes to be disposed of in sanitary landfills provided it does not hinder compaction operations.

In 1968, 60 of the 62 landfill sites in operation were unsanitary operations and the municipal incinerators in use did not conform to air pollution standards. Also, trash burning at home was a major contributor to air pollution. As of August, 1973, a waste disposal system had been approved and was in operation; it consisted of 14 sanitary landfills, 6 transfer stations, one high density baling plant, and one hazardous waste incinerator. (There were also some approved, special-purpose disposal facilities not included in these totals.) In addition to the approved system, there were also 2 recycling centers operating. Some solid waste, however, continued to be disposed of at unlicensed facilities. The three major municipal incinerators had been closed and it was estimated by Minneapolis and St. Paul air pollution control agencies that private incinerators had either been upgraded to meet air pollution standards or shut down. Hazardous wastes, however, were found to be mixed with other solid waste at landfills, and there was evidence that even at the two approved hazardous waste disposal facilities compliance with Policy 3 was not complete.

The salvaging of junked vehicles was being accomplished "to a significant degree"² largely through private sector operations, but also including a state program to draw single abandoned vehicles into the private sector system. Salvaging of tree wastes was being done to a limited extent through a Hennepin County chipping program, but foundry sand, coal ashes, street sweepings, demolition debris and bulky tree wastes were not being reused extensively.

Policies: Accessibility to the Urban Area

- 6) Select sites for sanitary landfills that are as close to the urban waste-generating area as possible. Sites should be distributed around the developed area.

- 7) Select sites accessible by highways that have all-season nine-ton axle load classifications or that are capable of achieving an equivalent carrying load. Use of the road for hauling must meet safety standards of the appropriate road authority.
- 8) Avoid use of residential streets as access routes.
- 9) Open disposal sites or transfer stations included in the Metropolitan Solid Waste Disposal System to all users irrespective of their place of residence or business.
- 10) Post at each disposal operation a schedule of rates for types of solid waste accepted at the operation.
- 11) Provide suitable disposal facilities for use by individuals who wish to transport their own solid waste.

The very general objective stated in Policy 6 was being met. However, the more specific distribution objectives of the System Plan were not met. See table 7. Six of the seven counties chose to rely on the private sector to provide the landfills. For this reason and because of unanticipated use of transfer stations, and lack of planning and lack of regulatory authority dealing with collection of solid waste, the distribution of landfill capacities among counties as projected by the System Plan was not followed. It is important to restate, however, that the objective of Policy 6 was met.

All sites met the requirement of Policy 7. Three of the 7 counties had designated haul routes in keeping with Policy 8, however, it was unknown to what extent the policy objective was actually being met. Policy 9 was not being completely met; a number of disposal sites were subsidized by local taxes and were restricted to local residents or hauling contractors. Policies 10 and 11 were met for the most part.

Policies: Environmental Pollution

- 12) Prohibit location of sanitary landfills within 1,000 feet of the normal highwater mark of a lake, pond, reservoir, or impoundment; within 300 feet of a river or stream or the landward side of a flood plain delineated by ordinance on such river or stream, whichever is greater; in a location with a high water table of any type; or in a major groundwater recharge area, when their locations can be identified.
- 13) Prohibit deposit of putrescible wastes within five feet above the highest known water table at the landfill site; and take such measures as may be necessary to seal the site sufficiently, so that wastes and leachings will not reach any ground or surface water.
- 14) Prohibit selection of wetlands for sanitary landfill sites.

- 15) Locate, develop, and operate sanitary landfills in conformance with regulations promulgated by the State Pollution Control Agency in all matters not addressed in this document.

Of the 14 licensed sanitary landfills, only five were located and/or operated totally in accord with these policies. Reasons for this include:

- the grandfather clause in the Metropolitan Solid Waste Disposal Act, which allowed open dumps located in conflict with these policies to be upgraded and continued;
- when only a portion of the site included a wetland or had a high water table, filling was allowed to ready the site for landfilling.¹³

In addition, terms like "major groundwater recharge area" and "wetland" were in need of clarification.

Council staff inspections, as well as review of state and county inspection reports, indicated that every landfill had been in violation of Policy 15 at one time or another. Common violations included inadequate and infrequent cover and blowing litter.

Policies: Compatibility with Neighboring Uses

- 16) Select physically and visually isolated sites for sanitary landfills, ensuring a minimum of 1,000 feet between such sites and existing or firmly proposed platted residential, institutional, commercial or park development, except where sanitary landfill is an integral part of a development plan for the area.
- 17) Provide complete visual screening of sanitary landfills by natural objects, trees, plantings, or attractive fences so the site will not be visible from nearby highways, parks, or other development.
- 18) Ensure the availability of fire protection facilities, and provide facilities and personnel to control dust, flies, rodents, odors, and other potential nuisances.

These policies seemed to have been implemented.

Policies: Reuse and Maintenance of Sanitary Landfill Sites

- 19) Select sanitary landfill sites that have a reuse potential beneficial to the community.
- 20) Prepare a reuse plan that is acceptable to the local governments involved prior to development of a sanitary landfill

site. For sanitary landfill sites now in operation and scheduled for continued use, require reuse plans acceptable to local governments concerned be submitted to PCA with the permit application for continued operation.

- 21) Develop landfill sites in accordance with specifications of the reuse plan.
- 22) Use construction techniques that are necessary to avoid landfill-associated hazards on all structure and facilities that are built upon the fill. Prohibit single-family residential construction over the fill.
- 23) File a certificate of completion of sanitary landfill operations with the County Register of Deeds, indicating the location, area of fill, composition of fill, and other pertinent characteristics of the completed sanitary landfill site.
- 24) Require continued inspection and maintenance of completed sanitary landfills to ensure the integrity of the cover material.
- 25) Prohibit abandonment or termination of operations at landfill sites without first providing adequate compaction and cover to prevent leaching, rodent infestation, escape of hazardous gas, and other nuisances.

These policies seemed to have been implemented, where applicable.

Policies: Transfer Stations

- 26) Locate transfer stations for solid waste disposal close to arterials, so that they are convenient to local collection routes and accessible to the sanitary landfill serving the area.
- 27) Ensure that the hauler collects wastes from transfer stations frequently enough to avoid spillage or other nuisances.
- 28) Ensure proper maintenance of transfer stations and their environs in order to prevent nuisances, such as blowing paper, odors, insects, and unsightliness.
- 29) Post a sign at transfer stations listing types of wastes that are acceptable and prohibiting all others, showing the collection schedule, the regulations for use, and other appropriate information.

All policies, with the exception of policy 29, had been generally followed.

Development Program

The Development Program outlined as part of the Solid Waste Management Chapter of the Development Guide contains both long-range and short-range objectives. The long-range objectives are:

- 1) Public Health problems or environmental pollution attributable to solid waste disposal practices shall be eliminated.
- 2) Adopt a method of solid waste disposal that will, insofar as possible, treat wastes as resources to be utilized through some type(s) of recycling.

As Reichert's study notes, the transition from a solid waste disposal system comprised of open dumps in 1969 to one of sanitary landfills in 1973 was in itself significant. "While not all the dumps have been properly closed and covered and not all the landfills are operating in the truly 'sanitary landfill' manner, the relative change is substantial."¹⁴

Resource recycling efforts were limited to "a small fraction of the total solid waste generated"¹⁵ at the time of the study, and included bottles, paper, scrap metal, leaf composting, wood chipping, and internal industrial and household recycling. However, "investigation and planning (was) underway to develop solid waste disposal techniques based on the objectives of resource and energy recovery."¹⁶

The short-range objectives of the Development Program were:

- 1) The metropolitan counties shall prepare reports indicating how they will implement the metropolitan comprehensive solid waste disposal plan and submit these reports to the Metropolitan Council for review no later than July 31, 1970.
- 2) The Metropolitan Council shall review county reports and act on them within 90 days after receipt. The county reports will be reviewed for their degree of compliance with the guidelines contained in the Metropolitan plan.
- 3) Each metropolitan county shall begin implementation of the metropolitan solid waste disposal plan upon approval of its county report.

Plans were submitted, approved, and staff were hired by the counties to implement them.

- 4) The metropolitan counties shall suspend operation of all nonconforming solid waste disposal facilities as soon as possible and no later than July 1, 1971.

Most of the non-conforming sites had been closed. However, many had not been fully covered, graded, and officially closed; sporadic dumping still occurred at some old dump sites.

- 5) The metropolitan counties shall develop and begin application of site inspection and pollution monitoring procedures to ensure the proper implementation of the Council's comprehensive plan.

Two of the seven counties had not established a regular monitoring program. One of these had no landfills, but the other received over 50% of the Metropolitan Area's solid waste.

- 6) The Metropolitan Council and the metropolitan counties jointly shall continue study efforts on the disposal of hazardous and special wastes and on various aspects of the junked vehicle problem.
- 7) The Metropolitan Council shall begin development of procedures for the completion of a long-range solid waste disposal plan.

Such study efforts and preliminary planning were undertaken.

Table 7: METROPOLITAN SOLID WASTE DISPOSAL SYSTEM CAPACITY,
SYSTEM PLAN REQUIREMENT AND ACTUAL

County	1969-1978 System Plan Capacity Requirement Acre Feet	1973-1978 Prorated System Plan Capacity Requirement Acre Feet	Oct. 1973 Actual Capacity Acre Feet
ANOKA	2,000	1,000	4,698
CARVER	300	150	0
DAKOTA	3,200	1,600	10,971
HENNEPIN	8,400	4,200	3,985
RAMSEY	0	0	0
SCOTT	300	150	1,750
WASHINGTON	<u>2,900</u>	<u>1,450</u>	<u>185</u>
TOTAL	17,100 ac. ft.	8,555 ac. ft.	21,589 ac. ft.

Source: An Evaluation of the Metropolitan Solid Waste Management Policies System Plan and Program Implementation (St. Paul: Metropolitan Council Staff Report, October, 1973)

Sanitary Sewers

The second staff report which addresses the questions of this study was written by Ian Ball in the summer of 1974.¹⁷ It deals with the Council's role in provision of sanitary sewer service in the Metropolitan Area. Specifically, it deals with the Council's experience in using review of local comprehensive sewer plans as a mechanism to implement its policies relating to sanitary sewers. The report does not relate use of that implementation mechanism to final output of the sewage collection and treatment system; nor does it actually document the successes and shortcomings of the Council in achieving compliance of the Sewer Board, the Minnesota Pollution Control Agency, and local governments with Council policies regarding the construction of local collection (and treatment) facilities. What it does do, however, is document the administrative procedures used to help assure that construction of those facilities is in keeping with Council policy, making clear where those procedures have succeeded in gaining coordination among the parties and where they have not. The results of that study are summarized by Ian Ball himself on pages 63-68 of Chapter II, above.

Briefly, the Council had considerable, though not complete, success in coordinating its review of local plans with that of the Sewer Board. Problems arose, however, in the use of those Council-Sewer Board-approved plans by the Minnesota Pollution Control Agency; it is the MPCA which issues permits for construction of local facilities. Though there was stated intent by the MPCA to use the plans as a basis for issuing permits, a series of administrative failings made such use difficult in practice. Finally, the lack of any satisfactory monitoring system made it difficult to know if the permitting process was effective in regulating construction of facilities, much less if the plan review process was effective in ensuring that such construction was in conformance with Council policies.

Discussion

Certainly, these two studies do not yield a definitive summary statement on the Metropolitan Council's ability to set policy which determines final output. Likewise, these studies do not treat all of the questions posed above on deviation of output from policy, and on factors which relate to that deviation. However, some things can be said.

Council policy has been reflected in final output to a remarkable extent. This is true of very general policy, as for example the move from open dumps to sanitary landfills, and of quite specific policy, like the location of landfills relative to neighboring land uses. This match of policy statement with output seems to have been particularly true where Council policy was also in the interest of the other agencies and governments involved, and/or where the public cost of implementation was lowest. Where Council policy was most ignored was in the difficult area of distribution of landfills across counties; this was also one area in which the MPCA took relatively little interest and in which the counties chose to take varying levels of interest and to see their interest in different ways. Other policy areas most ignored in practice were those which required monitoring and continuing administrative expense, for example, maintenance of landfill sites.

The Council seemed to be able to establish a greater and more consistent match of its objectives with administrative actions when those actions were taken by its own subordinate board, the Sewer Board (Metropolitan Waste Control Commission), than when those actions were taken by more distant agencies and other governments; the Council was able to see its comments on local sewer plans included in Sewer Board reviews, but had more difficulty having those comments considered by the MPCA (a State agency), and did not even know for the most part whether the local governments were taking those comments into consideration at all in their activities.

A shift from general to more measurable policy objectives enabled the Council to operate more swiftly and decisively, as suggested in the study of A-95 review of housing proposals. What that study also shows, however, is that other governments with decision-making authority on the question under consideration are likely to make their decisions on their own terms, regardless of the explicitness of Council objectives. Seemingly, the match of objectives between the Council and other agencies and governments is more important than explicitness of Council objectives, at least in areas where Council authority is limited to review and comment. However, explicitness by itself is also an advantage as seen by the increased use of Policy 31, after explicit measures of low-and-moderate-income-housing-effort had been developed.

Ball concludes in Chapter II that the Council has become increasingly involved in the management process over time, or at least has increasingly come to see the management consequences of its policies and has taken an increasing role in devising and monitoring (if not operating) those management processes. Does this constitute an affirmation of the findings of other studies on policy-administration relationships? Those studies suggest that

the dichotomy between policy and administration is not descriptively accurate; administrators make policy and policy-makers are involved in administration. Ball's observations would tend to confirm the latter expectation, at least. Likewise, most of the findings of Reichert and Ball and the A-95 review study would suggest that, while Council policy may be reflected in final output, there is considerable opportunity for administrative interpretation and indeed for policy-making by operating agencies and other governments as well.

Ball in Chapter II and Einsweiler in Chapter I conclude that the distinction between policy-making and implementation has been important in the history of the Council's development and remains important in people's thinking today. They also conclude, however, that the distinction is defined differently by different individuals and that the distinction has changed over time. They question whether the distinction is clear and stable enough to be descriptively useful. Surely, both notions--policy and implementation (or administration or operation)--are elusive and difficult to capture even conceptually, much less to assign to specific actions. Perhaps there is a need to reevaluate these notions and to seek a redefinition.

This chapter began with a definition of institutional arrangements as decision-making structures. The questions opened up by this view were: Who are the parties at interest, who are the decision-makers, and how do the parties at interest and the decision-makers relate to each other. This view also opens up a different way of looking at the policy-administration dichotomy. It suggests a keying off of decisions--and the relating of those decisions to output. It suggests that those decisions can be made by various actors at various times, and that not all decisions are determining with regard to output. It further suggests that it is the parties at interest who can best decide which decisions are the determining ones. Putting all of this together, we can define policy as patterned output of the political process. Decisions which determine that output, from the viewpoint of the parties at interest, are made by any one of a number of actors--the legislative body, the administrative head, the lowest level clerk, or even a private individual. The critical decisions are the ones which determine the pattern of the output; implementation, then, becomes the making of decisions which are left over after the critical decisions are made.

Taking this view of policy and administration seems to clarify what the Metropolitan Council is doing and not doing, and seems to accommodate the objections of Ball and Einsweiler concerning the notions of policy and administration and their application to the Council. Some examples of application of this view are useful. It would seem that the patterning decisions regarding the move from open dumps to sanitary landfills were indeed made by the Metropolitan Council. As we have seen, these decisions were patterning not because of the Council's extensive management control; it has very little. Much more important was the fact of shared objectives with other agencies and governments. In the case of sanitary sewers, the Council has attempted to establish more detailed procedures which will help to ensure that the Council decisions are the patterning ones (see Chapter II, pp. 68-72); it is too early to know if this is effective, but it is an attempt to rely on decisions of management process to pattern output rather than to rely alone on decisions regarding objective. Ball notes a trend in this direction. In the case of allocation of landfill sites across counties, the patterning decisions were made by the private

sector, with the concurrence of the counties. The Council made no patterning decisions, in spite of the fact that the Council's allocation plan was explicit and measurable. The Council lacked both management control over and shared objectives with other involved agencies and governments.

All of this was said previously, but focusing on output and refusing to draw artificial and a priori lines between policy statements and implementation enlarges our vision of options available. Now the design of implementation measures and institutional arrangements becomes policy-making itself, whereas the making of policy statements is seen as not necessarily making policy at all. It is more clearly seen that in some policy areas the Council will not be able to determine output without becoming an operation agency; there are other policy areas where attention to policy statements will be enough to pattern output, and still other policy areas where attention to design of implementation measures and institutional arrangements (design as opposed to operation) will allow the Council to pattern output.

This alternative view of Policy and Administration seems to accommodate the subtlety and richness of what appears to be occurring at the Metropolitan Council.

FOOTNOTES

¹See Dwight Waldo, The Administrative State (New York: Ronald Press, 1948), especially Chapter 7 and F. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), especially Chapter 3.

²Dwight Waldo, Scope of the Theory of Public Administration (Philadelphia: American Academy of Political and Social Science, 1968) Monograph 8.

³See, for example Michael E. Gleeson, Factors Influencing the Implementation of Legislative Policy -- an Experimental Study of Housing Code Enforcement, unpublished doctoral dissertation, Syracuse University, 1973.

⁴Norton Long "Bureaucracy and Constitutionalism," American Political Science Review, Vol. 46, Spring 1952, pp. 802-812.

⁵See, for example, J. March and H. Simon, Organizations (New York: John Wiley, 1958) and D. Katz and R. Kahn, The Social Psychology of Organizations (New York: John Wiley, 1968).

⁶March and Simon, op. cit., p. 42.

⁷See Gleeson, op. cit., Chapter 1.

⁸"An Evaluation of Metropolitan Solid Waste Management Policies, System, Plan and Program Implementation" (St. Paul: unpublished Metropolitan Council Staff Report, October 1973).

⁹"Review of Comprehensive Sewer Plan Procedures" Metropolitan Council Memorandum from Ian Traquair Ball to Robert T. Jorvig and Edward G. Maranda, July 23, 1974.

¹⁰See Chapter 1, "Solid Waste."

¹¹Metropolitan Council, Solid Waste Management, Metropolitan Development Guide, 1970.

¹²"An Evaluation," op. cit., p. 17

¹³ibid., p. 5

¹⁴ibid., p. 19

¹⁵ibid., p. 53

¹⁶ibid., p. 49

¹⁷Ball, op. cit.

EPILOGUE

This chapter reflects on what was learned in doing the case study as to the utility of the Howe and White or Bower and Basta proposals and as to future case studies by others.

The Howe and White Study

The study, Development of Residuals Management Strategies, proved less useful to the study than it should have been. The key tie should be that captured through Figure V-1 "Illustration of Points of Introduction by Physical Methods in the Residuals Generation and Discharge Model" and Figure V-2 "Identifying Components of Residuals Management Strategy" and the text supporting these charts. (See pp. S-5, S-7)

There are several items pertaining to this work that make the use somewhat inconvenient. For one, the following are probably the most critical set of physical methods to improve environmental quality:

- "B. Methods for Reducing the Discharge of Residuals or Modifying them to a Less Objectional Form.
 - 1. Methods for Reducing Residuals Generation
 - a. Change in (i) raw material and/or (ii) energy inputs to the production process.
 - b. Change in the (i) technology and/or (ii) operating rate of the production process.
 - c. Change mix of product inputs.
 - d. Change product output specifications.
 - 2. Methods for Modifying Residuals After Generation
 - a. Apply materials or energy recovery technology, i.e. utilize as an intermediate product.
 - b. Apply waste treatment (pollution control) technology without recovery of any materials or energy at (i) on-site or (ii) off-site (joint or collective) facility.
 - c. Utilize by-products of residuals modification after (i) on-site modification or (ii) off-site modification."

These are considered the most critical set because they are the most used and the most likely solutions for the near term. (See Figure V-1 for all the B series values.) The difficulty is that the above language which relates very well to industrial activity, is also to apply to residential, services, entertainment, undeveloped land and other categories. The economic framework language employed of goods

and services produced and consumed creates problems for urban activity classes such as those listed above. It would have been helpful to include examples for residential and motor vehicle movement as two other classes requiring attention where other language would be appropriate. In short, the description of the physical methods do not fit non-industrial uses very well.

Additional minor items from the charts are that values C1c "change the spatial distribution of the discharge of residuals" and C1d "change the timing distribution of the discharge of residuals" (Chart V-1) also apply to lines E-2b, direct discharge following on-site treatment, and D-2c, direct residuals discharges (Chart IV-1). Further, B2b₂ should also appear on line D-2b, discharge to an off-site treatment plant. The confusion seems to arise because the on-site and off-site facilities are diagrammed in series when they logically would be treated in parallel. For industrial waste water the series is fairly common. For most of the land uses or other forms of pollution it is not.

A second classification difficulty builds on this first one. The implementation methods are classified on p. 23 according to whether they are regulatory, economic, administrative or informative. The regulatory and administrative are subject to considerable confusion because regulatory items included could be by legislative or administrative act, e.g. "rationing", "prohibit motorized vehicles in environmentally fragile areas" and because items listed as administrative, e.g. "stagger working hours" could occur through legislated regulation. (See pp. 83-85 Howe and White.) In short, while the detailed list of items in Appendix B are quite useful, the classification schema is not. As found in the Twin Cities case, some implementation measures involving more than one agency combine regulatory and administrative elements on a shared basis.

The third classification scheme, the classification of Institutional Arrangements on p. 25 seems the least useful of all. The categories of governments by general, limited(special), and Intergovernmental, when combined with the four previous categories of implementation measures is misleading. Many units of government are capable of action in all the implementation classes. Yet the federal government cannot regulate land use except on its own land. The match should be between a second level classification of implementation measures and institutional arrangements if it is made at all.

Further, the intergovernmental scene is complicated as the report notes: "...one level of government may adopt the implementation measure, another level or entity of the government may implement it, and still a third may enforce it". This is becoming more common than not. Figure V-2 expresses a strong decision tree character proceeding from the problem to the institutional arrangement. This works against treating the multi-governmental situation described above and found in the Twin Cities.

It also does not deal adequately with the linkage (vertical on the chart) of a single implementation measure acting on a residual from two or more points of introduction. In the Twin Cities, for example, local sewer plans must be prepared to be compatible with the Metropolitan plan

and must be approved by the metropolitan agency. This plan and capital programs based on it serves as an intervention at point B2b2 or off-site waste treatment and at point C1a (in the text) or C1b (on the chart), change spatial distribution of existing or new activities. For years land use has been controlled by a number of techniques used independently. Now development management systems are being perfected to link techniques together so they can do more than before. Environmental management systems must do the same. This involves using a single implementation measure that can act at multiple entry points and linking implementation measures together.

The process shown is a highly idealized one in many respects. Three of these points are found to be different in the Twin Cities. First, the process for selection of residuals management strategy begins with the normative approach of goals and objectives before proceeding with the problem identification and identification of strategies. The process does recycle so that goals are adjusted based on implementation evaluation. While a common theoretical approach, few agencies truly do this any longer. Rather they do, as the Metropolitan Council, identify an unacceptable condition (pollution of lakes, rivers, etc.), investigate means for improvement together with social, economic, environmental and political costs, then set specific targets and adopt specific implementation measures. Perhaps this was meant, but the text seems to read otherwise.

A second aspect of the process is the degree to which every available avenue of solution is to be explored. Political and legal limitations are not to be brought in until the final analysis is completed and alternatives are selected. Bower and Basta make the same case. While this is academically neat, it can work in the real world only if no elected officials are involved until that choosing stage. This means a trade-off in understanding and commitment on the part of elected officials in exchange for more alternatives. The Twin Cities chose participation. As a consequence there were restraints placed on options to be investigated because politically there was no other way to continue to hold all parties together.

Third, the approach looks at solutions to problems of residuals first, then impacts on environment, economy, etc. The Twin Cities established policies on the use of the natural resources--particularly the rivers and lakes and adjacent land--before designing the strategy for water pollution abatement. No one has priced those policies to preserve recreation areas or water supply. By 1983, if the federal standards hold, the question will be moot. The region set some priorities and designed around them.

Chapter I relates one difficulty that emerged from the policy to remove all treatment plants from lakes. A very costly interceptor had to be built. But that was favored over the less costly alternatives. The Council also established priorities for sewer extension with first priority going to elimination of health or environmental problems and second priority to shaping new development. They achieved the former at the expense of the latter and then adopted a new strategy that states

where development should be allowed and where not. In short, in the Twin Cities, certain strongly supported policies are established without detailed cost/benefit evaluations and then become screens through which acceptable strategies must pass. This is not uncommon and should be recognized.

Finally, the framework provided by Howe and White is useful to the analyst of regional environmental management organizations. It was useful in several ways for the analysis of the institutional arrangements employed in the Minneapolis-St. Paul area. It, first of all, provided the conceptual base for separating analysis of institutional arrangements from everything else, without losing sight of what the "everything else" consists of.

A weakness in the Howe and White framework is also evident here, however. The framework separates institutional arrangements from implementation measures and physical methods and categorizes each, but it does not suggest how the three major categories relate to each other, nor how the sub-categories of each of the three relate to each other. In other words, the framework is a useful categorizing scheme which allows for comparative description and opens the door to dissecting an individual situation. But it is not a dynamic or operational or theoretical scheme; it does not suggest how the categories do or can relate to each other, how they operate, or what is likely to happen if one sub-category is replaced with another.

Howe and White's categorizing of institutional arrangements is very limited and at a high level of generalization as mentioned earlier. The categories can be related to democratic political theory as demonstrated in Chapter III, and are in this way useful for analysis. However, the detailed design of institutional arrangements are not suggested by Howe and White's framework; there is little to allow application of organization theory for more specific institutional analysis, for example. It was suggested in Chapter III that institutional design at a micro level is an important consideration over and above design of macro-institutional arrangements.

There are a number of conceptual schemes which are useful at very detailed levels--down to the work group.² Perhaps this is too detailed for the purposes intended here; what may well be needed is an intermediate level of categories, which in turn can be related to theory.

Defining institutional arrangements as decision-making structures, as in Chapter III, suggests such a middle-level framework. Relationships between decision-makers and parties-at-interest can be categorized as follows:

TABLE 1. Four Pure Types of Decision-Making Structures

	Parties-at-interest and Decision-makers are the same persons	Parties-at-interest are direct adversaries
Market-like structure	yes	no
Bargaining structure	yes	yes
Juridical structure	no	yes
Administrative structure	no	no

Some examples may help to make the distinctions more clear. Decisions on applying effluent (emission) controls to individual cases, for example, can be made by a decision-maker who is not one of the parties-at-interest, like a judge, or a bureaucrat. In the former case, the parties-at-interest (a manufacturing firm and a municipality, perhaps) are direct adversaries and in all likelihood even argue face-to-face before the "judge", who decides the issue on the basis of the arguments and the application of general standards to the issue. In the latter case, the parties-at-interest are not direct adversaries and the "bureaucrat" merely takes each case separately and decides the issue with reference to pre-set and detailed standards. On the other hand, effluent (emission) controls can be applied by the parties-at-interest themselves. The manufacturing firm and the municipality may simply bargain with each other until controls are arrived at to the satisfaction of both parties. Note that this is the desired effect of the EIS process where the reviewing agency is not one of parties-at-interest and has no enforcement power. The final decision-making structure, the market-like structure, operates through incentives rather than through regulations. For example, a market in "Rights to Pollute" could be created which would cause the parties-at-interest to "decide" how much effluent (emission) there should be in individual cases and to do so without becoming direct adversaries.³

Classifying institutional arrangements in this way suggests the range of options open to institutional designers. It also opens up a wealth of literature on market theory, bargaining theory, decision theory, and writings on judicial and administrative behavior. For our immediate purposes, this classification can be used to make some informed predictions about relative advantages and requirements for each option.

Levine⁴ suggests that market-like and administrative structures require objectives which are definable, specific and measurable. They require that the individual decisions can be treated separately and yet when summed will produce the desired aggregate impact. This presumes

measurement capability, a high level of knowledge of the process you are trying to intervene in, and an assurance of stability in that process. Bargaining and juridical structures require less foreknowledge, less measurement capability and less assurance of stability; they are therefore more suited to situations which require flexibility and accommodation of change.

Bargaining and juridical structures probably impose greater costs on the parties at interest--information costs and time delays--than do market-like and administrative structure. What the public costs of the various structures might be is a more complex question. Market-like and administrative structures require relatively high start-up costs and relatively low operating costs. Juridical structures have relatively low start-up costs but relatively high operating costs. Bargaining structures involve the least public cost, perhaps, with relatively low start-up and operating costs.

This is only suggestive, of course, of one direction further research might take. It is a direction which would build on the proven usefulness of Howe and White's framework for analysis of institutional arrangements, and take that framework one step further.

Having said all that, is Howe and White a useful framework or aid to case studies? Aid, yes; framework, no. It was designed as a framework for developing and evaluating residuals management strategies, not as a design for case studies. However it serves the absolutely critical purpose of trying to tie newly created institutional arrangements to implementation measures, and those in turn to physical methods. Our own work would be better if redone beginning today with what we now comprehend of Howe and White, and adjustments we would make in going through it again. There is nothing more demanding than the need to keep asking 'what authority does the current institutional arrangement have to intervene at point A, at B2a, or C1a?' We would have addressed it more thoroughly had not the initial months been caught up with the problems of Howe and White rather than its strengths.

Recommendations for Other Case Studies

These thoughts are put forth with some humility. They are, in effect, some of the key items the authors believe would aid knowledge, understanding, and action toward better forms of environmental management.

1. Treat the organization for environmental management in a metropolitan area as all agencies having any authority over the environment. If forced to deal with something less than all agencies, at least treat those at state and metropolitan level. It is becoming quite common for state agencies to set environmental standards, metropolitan agencies to build pollution abatement systems, and local governments to manage land use compatible with the environment. A case study that misses this phenomenon will be missing much of the potential for future management.

2. Case study should incorporate a history of the creation of environmental management organization, the organizational structure, the decision-making process, and the planning process. The three aspects are emphasized because it is helpful to know how and why an organization evolved, how it makes decisions (that has much to say for acceptable strategies) and how it puts together information for decision (which may have considerable effect on the decision itself). These points are stressed because they were found to be critical in the Twin Cities and because they differed in some respects from the Howe and White model, as explained above and in the Introduction to Chapter I.

3. A case study should describe the environmental management system to include all key implementation measures and the linkages among those measures. Further, those measures should be described in relation to the physical methods they are to control, the point of intervention in the residuals generation and discharge model where they apply, and the institutional arrangements for execution including particular attention to shared power arrangements.

4. A case study should describe the process of administering the environmental management system and decisions made about the system. To the extent data are available, the case study should examine the extent to which the environmental management system is achieving improved environmental quality, and the extent to which it is operating efficiently and effectively as a management system.

Considerable emphasis is placed on the processes of decision-making, administration and planning. It was found that most references identified what existed and how it evolved as static things--an organizational structure, a set of implementation measures, a plan. Few told how they worked. The Howe and White study does not deal with process. Neither does this contract call for it. Process was incorporated as time permitted.

5. As one last observation, the authors believe the approach to the history bears serious consideration. That is to begin with published books, reports and articles; verifying by official records and newspaper reports, and then finally augmenting, interpreting and amending by personal interview. This is the opposite of the normal approach where interviews come first, but it is commended because in a topic in which there are great long term debates, memories have a way of failing. When the record has been established first, it becomes easier to conduct an effective interview by having the ability to reach back and recall specific items.

Footnotes

¹Richard S. Howe and Nicholas L. White, Development of Residuals Management Strategies, (Washington D.C.: Environmental Protection Agency, June 1975), p. 21.

²J. March (ed.), Handbook of Organizations, (Chicago: Rand-McNally, 1965); D. Katz and R. Kahn, The Social-Psychology of Organizations, (New York: John Wiley, 1966); S. Srivastva and others, Job Satisfaction and Productivity, (Cleveland: Case Western Reserve University, Department of Organizational Behavior, 1975); R. Katzell and D. Yankelovich, Work, Productivity, and Job Satisfaction, (New York: Psychological Corp., 1975), L.C. 75-21726.

³See, for example, R. Bish, The Political Economy of Metropolitan Areas, (Chicago: Markham, 1971), pp. 128ff.

⁴R. Levine, Public Planning: Failure and Redirection (New York: Basic Books, 1972).